IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 9639 of 2015 (D)

PETITIONER(S) :

TEENA, AGED 30 YEARS,
W/O.XAVIER, KAVILAYIL, TRIPTY NAGAR 65,
EERAPURAM, SAKTHIKULANGAARA, KOLLAM- 691 581.

BY ADV. SRI.M.R.SASITH

RESPONDENT(S) :

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1. BANK OF INDIA,
REPRESENTED BY ITS CHIEF MANAGER, BANK OF INDIA,
CONVENT ROAD, KOLLAM, PIN- 691 001.

2. THE AUTHORIZED OFFICER,
BANK OF INDIA, KAVANADU BRANCH, KAVANADU,
KOLLAM, PIN- 691 003.

3. BRANCH MANAGER,
BANK OF INDIA, KAVANADU BRANCH, KAVANADU,
KOLLAM, PIN- 691 003.

BY ADV. SRI.JAWAHAR JOSE, S.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 9639 of 2015 (D)
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APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE STATEMENT ISSUED BY THE 3RD RESPONDENT DATED 13.03.2015.

EXHIBIT P2: TRUE COPY OF THE RECEIPT DATED 17.10.2014 SHOWING THE REMITTANCE OF THE AMOUNT BY THE PETITIONER.

EXHIBIT P3: TRUE COPY OF THE NOTICE DATED 07-02-2015 ISSUED BY THE ADVOCATE COMMISSIONER TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.9639 of 2015

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Dated this the 25th day of March, 2015

J U D G M E N T

The petitioner, who had availed of a loan from the respondent bank, defaulted in repayment of the same. Consequently, the respondent bank initiated proceedings under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts. Ext.P3 is the notice of the Advocate Commissioner appointed by the Chief Judicial Magistrate's Court, Kollam, to take possession of the secured assets. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the learned Standing counsel for the respondent bank.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I note that the sole prayer of the petitioner is to permit him to remit the balance amounts outstanding to the bank in easy instalments. Taking into account the plea of financial hardship raised by the petitioner, I

dispose the writ petition with the following directions:-

(i) The total overdue amount in respect of the loan availed by the petitioner is stated to be Rs.13,62,132/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.13,62,132/- together with accrued interest in eight equal and successive monthly instalments commencing from 10.04.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner by the respondent bank shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits a default in respect of any of the instalments, he will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns