IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

WP(C).No. 9653 of 2015 (F)

PETITIONER :

SURESH KUMAR A.K,
GEEDHA NIVAS, THALAYOLAPPARAMBU.P.O.,
VAIKOM, KOTTAYAM.

BY ADV. SMT.MERIL MUTHU P.JOHN

RESPONDENT(S):

1. **THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,**
   DISTRICT CO-OPERATIVE BANK BUILDING, POX BOX NO.140,
   KOTTAYAM, REPRESENTED BY IT'S AUTHORISED OFFICER,
   PIN-686 001

2. **THE AUTHORIZED OFFICER,**
   THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
   DISTRICT CO-OPERATIVE BANK BUILDING, POX BOX NO.140,
   KOTTAYAM,PIN-686 001

R1 & R2 BY ADV. SMT.A.SREEKALA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.9653/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE NOTICE DATED 11/02/2015 ISSUED UNDER RULE 8 (6) OF THE SECURITY INTEREST ENFORCEMENT RULES, 2002.

P2 COPY OF THE NOTICE DATED 12/02/2015 ISSUED BY THE 1ST RESPONDENT TO THE APPLICANT.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.9653 of 2015

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Dated this the 26th 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.P1 is the sale notice issued under Rule 8(6) of the Security Interest Enforcement Rules, 2002. 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.2,62,288/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.2,62,288/- together with accrued interest in three equal and successive monthly instalments commencing from 10.04.2015, and continues to keep up the regular instalments as per the original loan schedule, then the further proceedings including proceedings pursuant to Ext.P1 notice 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