IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

WP(C).No. 10017 of 2015 (B)

PETITIONER(S):

RADHAMANIYAMMA,
W/O.KRISHNAN NAIR,
BINU MANDHIRAM, THEERTHAPADAPURAM P.O.,
VAZHOOR, KOTTAYAM DISTRICT. PIN 686 505.

BY ADV. SRI.JOSEPH SEBASTIAN PURAYIDAM

RESPONDENT(S):

1.THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.
REPRESENTED BY ITS GENERAL MANAGER,
DISTRICT CO-OPERATIVE BANK BUILDINGS,
KOTTAYAM DISTRICT PIN 686 001.

2.THE AUTHORIZED OFFICER,
THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
DISTRICT CO-OPERATIVE BANK BUILDINGS,
KOTTAYAM DISTRICT PIN 686 001.

R1,R 2 BY ADV. SRI.SUNIL CYRIAC,SC,DIST.CO-OP,BANK,KTM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).NO.10017/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE NOTICE DATED 21.2.2015, ISSUED BY SECOND RESPONDENT TO THE PETITIONER UNDER THE SARFAESI ACT.

EXT.P2: COPY OF THE JUDGMENT IN RFA NO.425/11 OF THIS HON'BLE COURT.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.10017 OF 2015 (B)

Dated this the 27th 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 loan amounts. 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 to the petitioner. 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 for the petitioner as also the learned Standing counsel appearing 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 her to remit the balance amounts

outstanding to the bank in easy installments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:-

(i) The total amount outstanding from the petitioner to the respondent bank, is stated to be Rs.7,57,000/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.7,57,000/- together with accrued interest in ten equal and successive monthly installments commencing from 20.4.2015, then the further proceedings initiated against her by the respondent bank shall be kept in abeyance.

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

(iii) I make it clear that on payment of the first installment, the petitioner will be free to approach the respondent bank with a claim for extension of the benefit of any One Time Settlement or interest waiver scheme. If the petitioner files such a respresentation and the same is accepted by the respondent bank, then the bank shall intimate the petitioner of the reduced liability so as to enable the petitioner to discharge the said liability.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp