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. 10072 of 2015 (H)

PETITIONER :

PREM DEVAS N.J.,S/O.NAHASON, AGED 42 YEARS,
VP 5/1166, AKG NAGAR, KACHANI,
THIRUVANANTHAPURAM-695 013.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENT(S):

----

1. HOUSING DEVELOPMENT FINANCE CORPORATION LIMITED., REPRESENTED BY THE REGIONAL MANAGER, HDFC HOUSE, VAZHUTHACAUD, POST BOX NO.2288, THIRUVANANTHAPURAM-695 010.

2. THE AUTHORIZED OFFICER, UNDER THE SARFAESI ACT, HOUSING DEVELOPMENT FINANCE CORPORATION LIMITED., HDFC HOUSE, VAZHUTHACAUD, POST BOX NO.2288, THIRUVANANTHAPURAM-695 010.

R1 & R 2 BY SRI.K.K.CHANDRAN PILLAI,SENIOR ADVOCATE
ADV. SMT.S.AMBILY

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

sts

WP(C).NO.10072/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE SECTION 13(2) NOTICE DATED 06/10/2014.

P2 COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED NIL.

P3 COPY OF THE DEMAND DRAFTS DATED 25/03/2015

P4 COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT DATED 25/03/2015

P5 COPY OF THE REPRESENTATION DATED 25/03/2015.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No. 10072 of 2015 (H)

...

Dated this the 27th day of March, 2015

<u>JUDGMENT</u>

The petitioner, who had availed of a housing loan from the 1st respondent Corporation, defaulted in re-payment of the same. Consequently, the respondent Corporation initiated proceedings under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', against the petitioner. Ext.P1 is the notice issued under Section 13(2) of SARFAESI Act to the petitioner in that regard. Ext.P2 is the notice issued by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate, Thiruvananthapuram to take possession of the immovable property that was offered as security to the respondent Corporation, for the loan availed by the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent Corporation for recovery of the loan amounts.

2. Heard Sri.Latheesh Sebastian, the learned counsel appearing for the petitioner and Smt.S.Ambily, the learned Standing counsel appearing for the respondents.

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 total overdue amount to the respondent Corporation 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 overdue amount in respect of the housing loan is stated to be Rs.1,95,000/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.1,95,000/- together with accrued interest, in five equal and successive monthly instalments commencing from 20.04.2015, and continues to pay the regular monthly installments as per the original loan schedule, then, the recovery steps initiated against him by the respondent Corporation shall be kept in abeyance.

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

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/28/03/