IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

WP(C).No. 10079 of 2015 (H)

PETITIONER :

SUDHEESH, AGED 23 YEARS,
S/O.SUDHAKARAN, AVALOOKUNNU WARD,
BLOCK NO.17, THATTAMPALLY P.O.,
ALAPPUZHA-688 013.

BY ADV. SRI.R.T.PRADEEP

RESPONDENT(S):
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1. **UNION OF INDIA,**
   REPRESENTED BY THE SECRETARY, MINISTRY OF FINANCE,
   NEW DELHI-110 001.

2. **STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY,
   DEPARTMENT OF COOPERATION, SECRETARIAT,
   THIRUVANANTHAPURAM-695 001.

3. **AUTHORISED OFFICER,**
   THE ALLEPPEY URBAN CO-OPERATIVE BANK LTD.,
   PITCHU IYER JUNCTION, ALAPPUZHA-688 010.

R1 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
SRI.ANISH JAIN, CGC
R2 BY GOVERNMENT PLEADER SRI.R.RANJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.10079/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE NOTICE DATED 23/3/2015 BY ADVOCATE COMMISSIONER

P2 COPY OF THE NOTIFICATION DATED 28/1/2003 BY 1ST RESPONDENT.

P3 COPY OF THE ORDER DATED 10/5/2013 IN UNNUMBERED SLP IN C.C.10243/2013.

P4 COPY OF THE INTERIM ORDER DATED 26/08/2014 IN WP(C).NO.779/2014 BY SUPREME COURT.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

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W.P.(C) No. 10079 of 2015

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Dated this the 22nd day of May, 2015

JUDGMENT

The petitioner approached this Court challenging the SARFAESI proceedings. It is submitted by the learned counsel for the Bank that the petitioner defaulted in payment of instalment and the present due is around Rs.1,27,000/- and besides that the petitioner is having liability more than Rs.3,00,000/-. The petitioner submits that it is on account of financial constraints and marriage in the family, he was unable to pay the amount. It is further submitted that the secured asset is a residential building and only abode of a large family. The petitioner prays the leave of the court to pay the entire outstanding arrears in equal instalments along with regular EMI.

Considering the facts and circumstances, the writ petition is disposed of with the following directions:

i. The petitioner shall pay the arrears as on 30.5.2015 in ten equal instalments along with regular EMI.

ii. If the petitioner commits default in making payment of arrears and also regular EMI consecutively for two months, the respondent Bank is at liberty to proceed against the petitioner in accordance with law.

iii. If the petitioner pays the entire arrears within the time granted by this Court, the petitioner's account shall be regularized by the Bank.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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