IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

WP(C).No. 10312 of 2015 (L)

PETITIONER :

C.UNNIKRISHNAN NAIR
S/O.CHELLAPPAN PILLAI, AGED 52 YEARS
RESIDING AT 'VATTAVILAPUTHEN VEEDU', KURAKKANNI
VARKALA P.O., THIRUVANANTHAPURAM, PIN - 695 141.

BY ADVS.SRI.SAIJU S.
SRI.GIREESH PANKAJAKSHAN

RESPONDENT :

THE THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, EAST FORT, THIRUVANANTHAPURAM - 695 001
REPRESENTED BY ITS AUTHORISED OFFICER UNDER
THE SARFAESI ACT, 2002.

BY ADV. SRI.T.R.HARIKUMAR, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Mn

WP(C).No. 10312 of 2015 (L)

APPENDIX

PETITIONERS' EXHIBITS :

EXT.P1: THE TRUE COPY OF THE POSSESSION NOTICE DATED 12/8/2014 ISSUED BY THE RESPONDENT BANK TO THE PETITIONER UNDER SECTION 13(4) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C).No.10312 of 2015

...

Dated this the 13th day of October, 2015

JUDGMENT

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 possession notice. 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 for the petitioner and the learned Standing Counsel appearing on behalf of 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 outstanding amount from the petitioner to the respondent bank, in respect of the loan, is stated to be Rs.4,65,762/- together with accrued interest from 31.03.2015. Accordingly, if the petitioner pays the aforesaid amount of Rs.4,65,762/- together with accrued interest in twelve equal and successive monthly instalments commencing from 01.11.2015, the recovery steps initiated against the petitioner by the respondent Bank shall be kept in abeyance.

(iii) 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/13.10.15