IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 10604 of 2015 (A)

PETITIONER(S) :

JAMES.C.Y,
S/O.YOHANNAN, CHETHALAN HOUSE,
SITHARA NAGAR, ELIENJIPARA P.O, THRICHUR DISTRICT.

BY ADV. SRI.A.C.DEVY

RESPONDENT(S) :

INDUS IND BANK LIMITED,
REPRESENTED BY IT'S AUTHORIZE OFFICER,
RAMABHAVAN NO.XXII, PATHADIPALAM, TOLL JUNCTION,
EDAPPALLY, COCHIN- 24.

BY ADV. SRI.VARGHESE C.KURIAKOSE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 10604 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

NIL

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No.10604 of 2015 (A)

...

Dated this the 31st day of March, 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', against 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 Sri.Devy A.C., the learned counsel for the petitioner and Sri.Varghese C.Kuriakose, the learned Standing counsel appearing for the respondent.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the sole prayer of the petitioner is to permit him to remit the total amount 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 overdue amount in respect of the loan availed by the petitioner is stated to be Rs.3,73,560/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.3,73,560/-

together with accrued interest, in six 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 bank 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 bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

iii. On the petitioner remitting the 3rd installment or 50% of the total overdue amount indicated above, the respondent Bank shall hand over possession of the secured asset, to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/01/04/