IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No.10615 of 2015 (B)

PETITIONER:

R.SYAMKUMAR,TC 39/1814,KITTOOS COMPLEX,
MANACAUD,THIRUVANANTHAPURAM.

BY ADV. SRI.M.R.SASITH

RESPONDENT:

AUTHORISED OFFICER,
THE ORIENTAL BANK OF COMMERCE,
M.G.ROAD,THIRUVANANTHAPURAM - 695 001.

BY ADVS.SRI.K.P.SUJESH KUMAR
SMT.KEERTHI K.NARAYANAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.10615 of 2015 (B)

<u>APPENDIX</u>

<u>PETITIONER'S EXHIBITS</u>:

EXT.P1:TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE RESPONDENT BANK ON 9.3.2015.

<u>RESPONDENT'S EXHIBITS</u>: NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.10615 of 2015 (B)

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Dated this the 7th day of April, 2015

JUDGMENT

The petitioner, who had availed of a Cash Credit facility 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. Ext.P1 is the possession notice issued under Section 13(4) of the SARFAESI Act to the petitioner in that regard. 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.M.R.Sasith Panicker, the learned counsel for the petitioner and Sri.K.P.Sujesh Kumar, 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 amount outstanding from the petitioner to the respondent Bank is stated to be Rs.10,16,556/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.10,16,556/- together with accrued interest, in twelve equal and successive monthly instalments commencing from 30.04.2015, then, the recovery steps initiated against the petitioner for recovery of the amounts outstanding to the 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/07/04/