IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 10892 of 2015 (J)

PETITIONER:

MINI RAMANKUTTY, AGED 47 YEARS,
W/O.LATE G.RAMANKUTTY, SUNYY PLACE,
FLAT NO.1206, CHANGAMPUZHA SAMADHI ROAD,
EDAPPALLY - 24.

BY ADVS.SRI.A.T.ANILKUMAR
SMT.V.SHYLAJA

RESPONDENT(S):
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1. THE AUTHORIZED OFFICER,
THE FEDERAL BANK LTD., ZONAL OFFICE,
STRESSED ASSET MANAGEMENT CELLS,
FEDERAL TOWERS, MARINE DRIVE, ERNAKULAM.

2. THE FEDERAL BANK LTD.,
PANAGADU BRANCH,
REPRESENTED BY ITS SENIOR MANAGER.

BY ADVS. SRI.A.ANTONY, SC
ADV. SMT.LEELAMMA ANTONY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 10892 of 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 : THE TRUE COPY OF THE NOTICE.

EXHIBIT P2 : THE TRUE COPY OF THE POSSESSION NOTICE.

EXHIBIT P3 : THE TRUE COPY OF THE INTERIM ORDER IN S.A.NO.594/12 WITH TYPER VERSION.

EXHIBIT P4 : THE TRUE COPY OF THE OFFER LETTER OF THE PETITIONER.

EXHIBIT P5 : THE TRUE COPY OF THE LETTER DATED 19.2.2015.

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.10892 of 2015

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Dated this the 9th day of April, 2015

J U D G M E N T

The petitioner, who had availed of two loans 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.P2 is the possession notice issued under Section 13(4) of the SARFAESI Act. Counsel for the petitioner would submit that pursuant to a negotiation of the respondent bank, the respondent bank had, through Ext.P5 communication, agreed to permit a settlement of the account on condition that the petitioner pays an amount of Rs.30,00,000/- in full and final settlement of the account, on or before 25.02.2015. It is pointed out that, on account of the fact that the petitioner is a widow and unemployed, the petitioner could not raise the required funds within the time stipulated by the bank and, if she is given some time to pay the said amount, she is willing to pay the amount together with interest from 25.02.2015, which is the date that was prescribed by the bank for payment of the amount of Rs.30,00,000/-.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the learned Standing counsel for the respondent bank.

On a consideration of the facts and circumstances of the case and the submissions made across the bar,and taking into account the plea of financial hardship urged on behalf of the petitioner, I dispose the writ petition with the following directions:

> i. If the petitioner remits the amount of Rs.30,00,000/-, together with interest thereon, from 25.02.2015 till the date of payment of the last instalment, in three equal and successive monthly instalments commencing from 01.05.2015, then further proceedings for recovery shall be kept in abeyance by the respondent bank.
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> ii. I make it clear that, if the petitioner defaults in any single instalment then the petitioner will lose the benefit of this judgment, as also the benefit of Ext.P5 settlement offer, and the respondent bank will be free to initiate steps for recovery of the defaulted loan amount from the petitioner.
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> iii. On the petitioner paying the 1st two instalments of Rs.10,00,000/- each on

01.05.2015 and 01.06.2015, the respondent bank shall intimate the petitioner of the interest accrued in respect of the amount of Rs.30,00,000/- during the period from 25.02.2015 to 01.07.2015 and the petitioner shall pay the said interest amount together with the last instalment of Rs.10,00,000/- on 01.07.2015.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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