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. 10950 of 2015 (P)

PETITIONER(S) :

JOHNY J.,
JACOB'S HOUSE, NEAR MARKET, VALIYATHURA,
VALLAKKADAVU P.O, THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.MOHANAN

RESPONDENT(S) :

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1. **THE KERALA STATE CO-OPERATIVE BANK LTD.,**
   STATUE BRANCH, THIRUVANANTHAPURAM- 695 001,
   REP. BY THE BRANCH MANAGER.

2. **THE KERALA STATE CO-OPERATIVE BANK LTD.,**
   REGIONAL OFFICE, THIRUVANANTHAPURAM- 695 001,
   REP. BY THE AUTHORISED OFFICER,

BY ADV. SRI.GEORGE POONTHOTTAM, S.C

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

Msd.

WP(C).No. 10950 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: PHOTOCOPY OF THE SALE NOTICE ISSUED BY THE 2ND RESPONDENT DATED 16.03.2015.

EXHIBIT P2: PHOTOCOPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT DATED 03.02.2015.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.10950 of 2015 (P)

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Dated this the 7th day of April, 2015

JUDGMENT

The petitioner, who had availed of a home loan from the 1st respondent Bank in the year 2011, 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 notice issued under Section 13(4) 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. Heard Sri.C.K.Mohanan, learned counsel appearing for the petitioner and Sri.George Poonthottam, learned Standing counsel appearing for the respondents.

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 total overdue amount 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 is stated to be Rs.4,62,797/- together with accrued interest. Accordingly, if the petitioner remits the said amount of Rs.4,62,797/- together with accrued interest, in five equal and successive monthly instalments commencing from 30.04.2015, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/07/04/