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. 11191 of 2015 (Y)

PETITIONER:

BINOY ANTONY,
S/O.LATE V.J.ANTONY,
VILANGADAN HOUSE, VYTTILA,
PONNURUNNI, KOCHI - 82 019.

BY ADVS.SRI.K.I.MAYANKUTTY MATHER
SRI.ARUN KUMAR.P

RESPONDENT(S):
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1. STATE BANK OF TRAVANCORE,
   EDAPPALLY BRANCH, EDAPPALLY - 682 024,
   REPRESENTED BY ITS BRANCH MANAGER.

2. THE CHIEF MANAGER(MAINTENANCE)
   AUTHORIZED OFFICER,
   STATE BANK OF TRAVANCORE,
   SBT BHAVAN, PANAMPILLY NAGAR,
   ERNAKULAM - 682 036.

BY SRI.SANTHOSH MATHEW, SC
BY SRI.SATHISH NINAN, SC

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

mbr/

WP(C).No. 11191 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 : **TRUE COPY OF THE NOTICE UNDER SECTION 13(2) ISSUED BY THE 2ND RESPONDENT UNDER SARFAESI ACT DATED 7.7.2014.**

EXHIBIT P2 : **TRUE COPY OF THE REPLY GIVEN BY THE PETITIONER DATED 10.9.2014.**

EXHIBIT P3 : **TRUE COPY OF THE NOTICE UNDER SECTION 13(4) ISSUED BY THE 2ND RESPONDENT UNDER SARFAESI ACT DATED 25.3.2015.**

EXHIBIT P4 : **TRUE COPY OF THE POSSESSION NOTICE PUBLISHED IN MANGALAM DAILY DATED 29.3.2015.**

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.11191 of 2015

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Dated this the 7th day of April, 2015

J U D G M E N T

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 notice under Section 13 (2) issued by the 2nd respondent under the SARFAESI Act. Ext.P4 is the notice under Section 13 (4) issued by the 2nd respondent under the SARFAESI Act. 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 appearing on behalf of the petitioner as also the learned Standing counsel for 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 overdue amount in respect of both the loans availed by the petitioner is stated to be Rs.78,677/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.78,677/- together with accrued interest in three equal and successive monthly instalments commencing from 30.04.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner 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 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