IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 11193 of 2015 (Y)

PETITIONER(S):

SURPIL KOYA, S/O.VEERAN,
SURPIL HOUSE, KODAKKAL P.O.,
THIRUNAVAYA AMSOM, KARATHOOR DESOM,
TIRUR TALUK, MALAPPURAM DISTRICT.

BY ADVS.SRI.BABU S. NAIR,
SRI.R.RANJITH.

RESPONDENT(S):

THE TIRUR URBAN CO-OPERATIVE BANK LTD.,
F.1818, TIRUR, MALAPPURAM DISTRICT,
REPRESENTED BY ASSISTANT GENERAL MANAGER
IN CHARGE/ AUTHORIZED OFFICER, PIN-676 101.

BY ADV. SRI.M.SASEENDRAN, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 11193 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	COPY OF THE NOTICE ISSUED BY THE RESPONDENT UNDER SECTION 13(2) OF THE SARFAESI ACT DATED 09/07/2013.
EXT.P2	COPY OF THE ORDER DATED 19/09/2014 OF THE CJM, MANJERI IN CRL.M.P. NO.2643/2014.
EXT.P3	COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER IN CMP. NO.2643/2014 OF THE CJM, MANJERI DATED 01/04/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

..

W.P.(C) No. 11193 of 2015 (Y)

..

Dated this the 8th day of April, 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. Ext.P1 is the notice issued under Section 13(2) of SARFAESI Act to the petitioner in that regard. Ext.P2 is the notice issued by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate, Manjeri, to take possession of the immovable property that was offered as security to the respondent bank, for the loan availed by 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.Babu S.Nair, the learned counsel for the petitioner and Sri.M.Sasidharan, 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 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 availed by the petitioner is stated to be Rs.8,26,876/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.8,26,876/- together with accrued interest, in eight 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/08/04/