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. 11443 of 2015 (E)

PETITIONER(S):

ABDUSALAM O, AGED 39 YEARS,
S/O.MUHAMMED, ORAN MATAKKAL HOUSE,
THALAKKADATHUR P.O., CHERIYAMUNDAM AMSOM,
THALAKKADATHUR DESOM, TIRUR TALUK,
MALAPPURAM DISTRICT.

BY ADVS.SRI.J.R.PREM NAVAZ
SRI.P.T.SHEEJISH

RESPONDENT(S):

1.THE TIRUR URBAN CO-OP.BANK LTD.,
REPRESENTED BY MR.KRISHNAN.E., ASSISTANT
GENERAL MANAGER, F.1616, TIRUR, MALAPPURAM 676 103.

2.AUTHORIZED OFFICER,
UNDER SARFAESI ACT, THE TIRUR URBAN CO-OPERATIVE
BANK LTD., PIN CODE : 676 103.

R BY SRI.M.SASINDRAN, SC

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

W.P.(C).NO.11443/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE NOTICE OF THE ADVOCATE COMMISSIONER NOTICE DATED 27.2.2015.

EXT.P2: COPY OF THE NOTICE OF THE ADVOCATE COMMISSIONER NOTICE DATED 25.3.2015.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.11443 OF 2015 (E)

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 issued to the petitioner by the Advocate Commissioner. 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 for the petitioner as also the learned Standing counsel appearing 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 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.2,52,000/- together with accrued interest. Accordingly, if the petitioner pays the above amount of Rs.2,52,000/- together with accrued interest in ten equal and successive monthly installments commencing from 30.4.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp