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.11563 of 2015 (U)

PETITIONER:

SHAJI.D,AGED 45 YEARS,S/O.DEVADAS,
NIKUNJAM,PHC ROAD,VILAPPILSALA P.O.,
PEYAD,THIRUVANANTHAPURAM-695573.

BY ADV.SRI.AYYAPPAN SANKAR

RESPONDENT:

THE CHIEF MANAGER(AUTHORIZED OFFICER),
STATE BANK OF TRAVANCORE,PEYAD BRANCH,
THIRUVANANTHAPURAM-695043.

R1 BY SRI.JAWAHAR JOSE,STATE BANK OF TRAVANCORE

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

pk

W.P(C) NO.11563/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE PHOTOCOPY OF LOAN PASSBOOK ISSUED BY RESPONDENT BANK FOR LOAN NO.MTL 67037075852.

EXT.P2:TRUE PHOTOCOPY OF LOAN PASS BOOK ISSUED BY RESPONDENT BANK FOR LOAN NO.67187701186.

EXT.P3:TRUE PHOTOCOPY OF THE DEMAND NOTICE ISSUED BY RESPONDENT UNDER SECTION 13(2) OF SARFAESI ACT,2002.

EXT.P4:TRUE PHOTOCOPY OF THE REPLY DATED 16.2.2015 ISSUED BY PETITIONER TO EXHIBIT P3 NOTICE ALONG WITH POSTAL RECEIPT THEREOF.

EXT.P5:TRUE PHOTOCOPY OF POSSESSION NOTICE UNDER SECTION 13(3) OF SARFAESI ACT AFFIXED IN PETITIONER'S RESIDENCE BY THE RESPONDENT.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 11563 of 2015
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Dated this the 8th day of April, 2015

JUDGMENT

The petitioner, who had availed 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.P3 is the notice issued to the petitioner under Section 13(2) of the SARFAESI Act and Ext.P5 is the possession notice issued to the petitioner under Section 13(4) of 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 appearing on behalf of 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 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 both the loans, is stated to be Rs.4,95,900/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.4,95,900/- together with accrued interest in ten equal and successive monthly installments commencing from 30.04.2015, and continues to keep up the regular installment payments 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

das