IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 11861 of 2015 (G)

PETITIONER(S) :

THULASEEDHARAN, AGED 49 YEARS,
RESIDING AT P.S.NIVAS, KOIPPALLY KARAZHMA,
OLAKETTIYAMBALAM P.O., MAVELIKARA.

BY ADV. SRI.R.RAJASEKHARAN PILLAI

RESPONDENT(S) :
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1. THE INDIAN BANK, REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR,
CORPORATE OFFICE, P.B.NO.5555, 254 - 260,
AVVAI SHANMUGAM SALAI,
ROYAPETTAH, CHENNAI - 600 014.

2. THE BRANCH MANAGER, INDIAN BANK,
MAVELIKARA BRANCH - 690 101.

3. THE CHIEF MANAGER AUTHORIZED OFFICER,
INDIAN BANK, NIRANAM 689 621.,
PATHANAMTHITTA.

R1 - R3 BY ADV.SRI.S.EASWARAN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AMV

WP(C).No. 11861 of 2015 (G)

APPENDIX

PETITIONER(S) EXHIBITS :

EXT.P1	COPY OF THE NOTICE DATED 18.06.2014 OF A/C.NO.985584109
EXT.P1A	COPY OF THE NOTICE DATED 18.06.2014 OF A/C.NO.979277811
EXT.P1B	COPY OF THE NOTICE DATED 18.06.2014 OF A/C.NO.979398224
EXT.P1C	COPY OF THE NOTICE DATED 18.06.2014 OF A/C.NO.98554210
EXT.P2	COPY OF THE DEMAND NOTICE DATED 14.01.2015 FROM THE 2ND RESPONDENT TO THE PETITIONER.
EXT.P3	COPY OF THE STATEMENT OF ACCOUNT FOR A/C.NO.985584109
EXT.P3A	COPY OF THE STATEMENT OF ACCOUNT FOR A/C.NO.979277811
EXT.P3B	COPY OF THE STATEMENT OF ACCOUNT FOR A/C.NO.979398224
EXT.P3C	COPY OF THE STATEMENT OF ACCOUNT FOR A/C.NO.98554210

RESPONDENTS EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

AMV

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.11861 of 2015 (G)

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Dated this the 9th day of April, 2015

JUDGMENT

The petitioner, who had availed of two overdraft facilities and two term loans from the 2nd 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. 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.R.Rajasekharan Pillai, the learned counsel for the petitioner and Sri.S.Eswaran, the learned Standing counsel appearing for the respondents.

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 amount 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 amount outstanding from the petitioner under the overdraft facility is stated to be Rs.4,94,689/- together with accrued interest. As far as the term loans are concerned, the total overdue amount in respect of the loans is stated to be Rs.98,505/- together with accrued interest. Accordingly if the petitioner pays an amount of Rs.1,00,000/- on or before 30.04.2015; and continues to pay the regular monthly installments as per the original loan schedule of the term loans, then, further proceedings for recovery of amounts due from the petitioner under the term loans shall be kept in abeyance.

ii. Similarly, if the petitioner pays an amount of Rs.4,94,689/- together with accrued interest, in eight equal and successive monthly installments commencing from 30.05.2015, in respect of the overdraft facility, then, the recovery steps initiated against the petitioner for recovery of the amounts under the said overdraft facility outstanding to the Bank shall be kept in abeyance.

iii. It is made clear that, if the petitioner defaults any single installment in respect of either of the accounts, then, 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/10/04/