IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 12184 of 2015 (W)

PETITIONER(S):

DILKUMAR AGED 48 YEARS,S/O. M.R P. SIVARAJAN
VILAYIL VEEDU, CHANTHAVILA
KATTAIKONAM PO, THIRUVANANTHAPURAM DISTRICT 695 584

BY ADVS.SRI.ROSHEN.D.ALEXANDER
SMT.TINA ALEX THOMAS

RESPONDENT(S):

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1. CANARA BANK, HAVING HEAD OFFICE AT 112
JC ROAD, BANGALORE -2, THROUGH ITS
KAZHAKKUTTAM BRANCH, KAZHAKKUTTAM PO
THIRUVANANTHAPURAM -695 582
REPRESENTED BY ITS SENIOR MANAGER

2. THE AUTHORISED OFFICER, CANARA BANK
THROUGH ITS KAZHAKKUTTAM BRANCH
KAZHAKKUTTAM PO, THIRUVANANTHAPURAM - 695 582

R BY SRI.PAULY MATHEW MURICKEN,STANDING COUNSEL,CANARA BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 12184 of 2015 (W)

APPNDIX

PETITIONER'S EXHIBITS:-
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EXHIBIT P1	**TRUE COPY OF THE FIRST PAGE OF THE LOAN ACCOUNT PASS BOOK**
EXHIBIT P2	**TRUE COPY OF THE PLAINT IN OS NO.322/2011 AS PRINCIPAL SUB COURT, THIRUVANANTHAPURAM**
EXHIBIT P3	**TRUE COPY OF THE POSSESSIION NOTICE DATED 13.08.2013 ISSUED BY THE 2ND RESPONDENT.**
EXHIBIT P4	**TRUE COPY OF THE NOTICE OF E-AUCTION DATED 02.03.2015 BY THE RESPONDENTS.**
EXHIBIT P5	**TRUE COPY OF THE LETTER DATED 10.03.2015 ISSUED BY THE BANK.**

RESPONDENT'S EXHIBITS:-
--- **NIL**

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 12184 of 2015

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Dated this the 10th day of April, 2015

JUDGMENT

The petitioner, who had availed 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.P2 is the 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. Counsel for the respondent bank would submit that this is a case where the respondent bank was forced to file a suit for recovery of the amount from the petitioner and the said suit is also pending. It is pointed out that the pendency of the suit will not be a bar for the respondent bank proceeding under the SARFAESI Act.

4. 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.3,41,957/- together with accrued interest and other expenses such as suit costs. Accordingly, if the petitioner remits the aforesaid amount of Rs.3,41,957/- together with accrued interest and other costs, the total figure in respect of which will be furnished to the petitioner by the respondent bank within two weeks from today, in eight 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

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