IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No. 13092 of 2015 (J)

PETITIONER :

SIBI M.S.,
AGED 40 YEARS
S/O.K.B.MURALIDHARAN,
SALIM MANZIL, NEDUMAM
KOVALAM, NEAR COUNTRY CLUB,
THIRUVANANTHAPURAM.

BY ADV. SRI.VINOY VARGHESE KALLUMMOOTTILL

RESPONDENT(S) :

1. AUTHORISED OFFICER
STATE BANK OF INDIA, R.A.C.P.C., L.M.S.COMPOUND
THIRUVANANTHAPURAM-695 001.

2. THE MANAGER
STATE BANK OF INDIA, R.A.C.P.C., L.M.S.COMPOUND
THIRUVANANTHAPURAM-695 001.

3. THE MANAGER
DEEDI MOTORS PVT. LTD., ANAYARA P.O.
THIRUVANANTHAPURAM-695 001.

R1 & R2 BY ADV. SRI.R.S.KALKURA, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 13092 of 2015 (J)

APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT-P1: TRUE COPY OF THE STATEMENT OF ACCOUNT OF THE PETITIONER FURNISHED BY THE 2ND RESPONDENT BANK TILL MARCH 2015.

EXHIBIT-P2: TRUE COPY OF THE INSURANCE POLICY OF THE VEHICLE .

EXHIBIT-P3: TRUE COPY OF THE WARRANT ISSUED BY THE CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM IN M.C.NO.272/2015 AUTHORIZING THE COMMISSION TO POSSESSION OF THE PROPERTY.

EXHIBIT-P4: TRUE COPY OF THE SMS COMMUNICATION PRINT OUT BETWEEN THE PETITIONER AND THE CHIEF MANAGER OF THE BANK.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.13092 of 2015

....

Dated this the 30th day of October, 2015

J U D G M E N T

The petitioner, who had availed of a car 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.3 is the order of the Chief Judicial Magistrate. 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 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 instalments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:-

(i) It is submitted by counsel for the respondent bank that after giving credit to the amounts already paid by the petitioner pursuant to the interim order dated 05.05.2015, the balance amount remaining to be paid by the petitioner for regularising the loan account is an amount of Rs.5,000/-. Accordingly, if the petitioner pays the said amount of Rs.5,000/- within 10 days from the date of receipt of a copy of this judgment and continues to keep up the regular instalments as per the original loan schedule, further proceedings for recovery shall be kept in abeyance.

(ii) It is made clear that, if the petitioner commits a default in respect of any of the instalments, 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

mns/30.10.15