IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

WP(C).No. 13293 of 2015 (J)

PETITIONER :

PRATHEESHA RAJESH
W/O.RAJESH, AGED 34 YEARS
NOW RESIDING AT P.G.SADANAM, VETTUVAZHY
KURIOD P.O., CHADAYAMANGALAM, KOTTARAKARA
KOLLAM DISTRICT.

BY ADV. SRI.ALEXANDER GEORGE

RESPONDENT(S) :

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1. CO-OPERATION BANK
   REPRESENTED BY ITS BRANCH MANAGER, VARKALA BRANCH
   THIRUVANANTHAPURAM DISTRICT, PIN - 695 001.

2. AUTHORIZED OFFICER,
   CO-OPERATION BANK, ZONAL OFFICE, PALAYAM
   THIRUVANANTHAPURAM - 695 605.

3. SHEEJA S. NAIR,
   ADVOCATE COMMISSIONER, AMMA BUILDING
   SOUTH EAST OF COLLECTRATE, KOLLAM - 13.

R1 & R2 BY ADV. SRI.VIVEK VARGHESE P.J.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 13293 of 2015 (J)

<u>APPENDIX</u>

PETITIONERS' EXHIBITS :

EXT.P1: A TRUE COPY OF THE NOTICE DATED 10/04/2015 SENT BY THE ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.13293 of 2015

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Dated this the 1st day of December, 2015

J U D G M E N T

The petitioner's husband, 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. The respondent bank accordingly, proceeded against the property of the petitioner that was offered as security for the loan. Ext.P1 is the notice issued by the Advocate Commissioner under the SARFAESI Act. It is submitted by counsel for the petitioner that, the Advocate Commissioner has since sent another notice threatening to take possession of the property of the petitioner tomorrow. 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 for the petitioner and the learned Standing Counsel appearing on behalf of 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 her 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) The total amount outstanding from the petitioner to the respondent bank, in respect of the loan, is stated to be Rs.30,00,000/- together with accrued interest. This however is subject to verification by the respondent bank. Accordingly, if the petitioner pays the total amount outstanding to the respondent bank on or before 15.01.2016, further proceedings for recovery shall be kept in abeyance.
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> (iii) It is made clear that, if the petitioner commits a default in respect of any of the instalments, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/01.12.15