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. 14383 of 2015 (W)

PETITIONER :

MRS.RAJEENA, AGED 41 YEARS,
W/O.SHAKUL HAMEED, M/S.CLASSIC TEXTILES,
UPASANA NAGAR, NEAR UPASANA HOSPITAL,
KOLLAM -691 001.

BY ADVS.SRI.PRAVEEN K. JOY
SRI.T.A.JOY

RESPONDENT(S):
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1. THE AUTHORISED OFFICER,
TAMIL NADU MERCANTILE BANK,
THIRUVANANTHAPURAM REGION, REGIONAL OFFICE,
TRIVANDRUM.

2. THE BRANCH MANAGER,
TAMIL NADU MERCANTILE BANK LTD., S.M.V.TOWER,
CHINNAKADA, KOLLAM - 691 001.

R1 & R2 BY ADVS. SRI.K.S.DILIP
SRI.SAJU N.A.
SMT.G.LEKHA
SMT.P.J.FLONY

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

sts

WP(C).No. 14383 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - **TRUE COPY OF THE CERTIFICATE DATED 12/4/15 OF DR.SHAJI OF DISTRICT HOSPITAL, KOLLAM.**

P2 - **TRUE COPY OF THE ENCUMBRANCE CERTIFICATE DATED 12/12/14 OF S.R.O KOLLAM.**

P3 - **TRUE PHOTOCOPY OF NOTICE DATED 6/5/15 OF THE 1ST RESPONDENT.**

P4 - **TRUE PHOTOCOPY OF THE APPLICATION FOR REGULARIZATION BEFORE THE RESPONDENTS.**

P5 - **TRUE PHOTOCOPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT AND SIGNED BY THE PETITIONER DATED 27/4/15 AND GIVEN TO THE BANK.**

RESPONDENT(S)' EXHIBITS

R1(A)- **COPY OF THE SANCTION LETTER.**

R1(B)- **COPY OF THE DEMAND NOTICE ISSUED UNDER SARFAEST ACT.**

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.14383 of 2015

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Dated this the 1st day of December, 2015

<u>J U D G M E N T</u>

The petitioner 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. Ext.P3 is the sale notice issued by the respondent bank. 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, after giving credit to the amount of Rs.1 lakh paid by the petitioner pursuant to the interim order dated 12.05.2015 of this Court, is stated to be Rs.14,29,107/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.14,29,107/- together with accrued interest in 12 equal and successive monthly instalments commencing from 30.12.2015, further proceedings for recovery shall be kept in abeyance.

(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