IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

WP(C).No. 17083 of 2015 (I)

PETITIONER(S):

THOMAS CHERIYAN, AGED 54 YEARS,
S/O.CHERIYAN, KAPPIL HOUSE, KAYANNA P.O.,
PERAMBRA, KOZHIKODE DISTRICT - 673 526.

BY ADVS.SMT.V.P.SATHI
SMT.O.V.BINDU

RESPONDENT(S):
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1. **KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.,**
   REP. BY ITS SECRETARY, KALLAI ROAD, P.O. CHALLAPURAM,
   KOZHIKODE - 673 002.

2. **AUTHORIZED OFFICER,**
   KOZHIKODE DISTRICT CO OPERATIVE BANK LTD.,
   KALLAI ROAD, P.O. CHALLAPURAM, KOZHIKODE - 673 002.

BY ADV. SRI.R.SUDHISH, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 17083 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1:-TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER ON 19/8/2014.

EXT. P2:-TRUE COPY OF THE PAY IN SLIP SHOWING THE REMITTANCE OF RS 50,000/- (RUPEES FIFTY THOUSAND ONLY) ON 23/8/2014.

EXT. P3:-A TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONE DTD 22/5/2015

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.17083 of 2015

Dated this the 9th day of June, 2015

J U D G M E N T

The petitioner availed a loan from the respondent Bank in the year 2009. Since default was committed in repayment of the same, the Bank initiated 'SARFAESI' proceedings as per Ext.P1 notice. Pursuant to the said notice, the petitioner remitted an amount of ₹50,000/- to the Bank in the year 2014. Thereafter, the Bank issued Ext.P3 notice against the petitioner. The petitioner challenges 'SARFAESI' proceedings in this writ petition.

2. The learned Standing Counsel for the Bank submits that, the overdue amount is around ₹2,25,000/- and the liability is more than ₹4,50,000/-.

3. Heard the learned counsel for the petitioner as well as the learned Standing Counsel for the respondents.

4. Considering the fact that the secured asset is a residential building, this writ petition is disposed of with the following directions :

The petitioner shall deposit an amount of ₹50,000/- (Rupees Fifty thousand only) towards overdue amount on or before 30.06.2015. Thereafter, the petitioner shall remit the balance overdue amount along with regular EMIs in ten equal monthly installments starting from the month of July, 2015 onwards. If the petitioner clears the entire overdue amount as directed above, the Bank shall regularise the loan account. It is made clear that, if any default is committed with regard to repayment of the overdue amount as above, or if any two consecutive defaults are made with regard to the regular EMIs, it will be open for the respondent Bank to proceed against the petitioner for realization of the entire amount in lump, from the stage where it stands now.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV