IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

WP(C).No. 18398 of 2015 (Y)

PETITIONER :

P.ABDUL RAHEED,
PARTNER M/S.SOUNDARYA CORPORATE,
DOOR NO.44/2890 A TO Q M.M.ROAD,
NEAR MATTAMPURAM JUMA MASJID,
THALASSERY P.O., KANNUR - 670 101.

BY ADV. SRI.NISHIN GEORGE VIJAYABABU

RESPONDENT :

CATHOLIC SYRIAN BANK,
HAVING ITS ZONAL OFFICE AT ALPHONSA BUILDING,
ARAYADATHUPALAM JUNCTION, INDIRA GANDHI ROAD,
KOZHIKODE - 673 004,
REPRESENTED BY ITS AUTHORISED OFFICER.

BY SRI.R.S.KALKURA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 18398 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: COPY OF THE DEMAND NOTICE DATED 10.10.2014 ISSUED BY THE RESPONDENT U/S.13(2) OF THE SARFAESI ACT ISSUED TO THE PETITIONER

EXT.P-2: COPY OF CAVEAT PETITION DATED 12.5.2015 FILED BY THE RESPONDENT BEFORE THE HON'BLE DEBTS RECOVERY TRIBUNAL, ERNAKULAM.

EXT.P-3: COPY OF PAY IN SLIP DATED 6.3.2015 ISSUED BY THE RESPONDENT TO THE PETITIONER

EXT.P-4: COPY OF PAY IN SLIP DATED 31.3.2015 ISSUED BY THE RESPONDENT TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.18398 of 2015

Dated this the 19th day of June, 2015

J U D G M E N T

The petitioner availed a cash credit facility from the respondent Bank. On account of default in repaying the amount, the Bank initiated 'SARFAESI' proceedings against the petitioner.

2. The liability is around ₹3 Crores. The learned counsel for the petitioner submits that, the unit is functioning. The petitioner's only prayer before this Court is that, he may be permitted to discharge the liability by way of equal monthly installments and the Bank may be directed to renew the cash credit facility.

3. The learned Standing Counsel for the Bank opposes the prayer of the petitioner and submits that, the petitioner's units are not functioning and the business is closed down.

4. Considering the fact that, the petitioner is claiming that he is conducting the business, the petitioner's request for renewal shall be considered by the Bank after adverting to the genuineness of the claim. The petitioner shall make available before the Bank all the details regarding the functioning of units. If such details are provided, necessarily the Bank shall consider it in an appropriate manner.

5. The petitioner's repayments will be depend upon the decision of the Bank on the request made by the petitioner.

However, to defer the proposed dispossession, the petitioner shall remit an amount of ₹20,00,000/- (Rupees Twenty lakhs only) on or before 29.06.2015 and thereafter another amount of ₹20,00,000/- (Rupees Twenty lakhs only) on or before 20.07.2015. If the petitioner fails to honour any of the conditions stipulated above, the Bank is at liberty to proceed against the petitioner. If the petitioner deposits the amount as directed above, all coercive proceedings against the petitioner shall be deferred for a further period of three months so as to enable the petitioner to work out any other alternative, if the Bank is not acceding for rescheduling of the loan.

This writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV