IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 19239 of 2015 (D)

PETITIONER(S):

V.P. KUNJYETH, AGED 62 YEARS,
S/O.V.P.AHAMMED, VARIAM PUTHIYOTTIL HOUSE,
P.O. PERAMBRA, KOZHIKODE-673 525.

BY ADV. SRI.SHAJI JOSEPH.

RESPONDENT(S):
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1. **THE AUTHORIZED OFFICER/SENIOR MANAGER,**
   KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD. NO.F 1635,
   KALLAI ROAD, CALICUT-673 002.

2. **THE BRANCH MANAGER,**
   KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD. NO.F 1635,
   PERAMBRA BRANCH, CALICUT- 673 525.

BY ADV. SRI.R.SUDHISH, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 19239 of 2015 (D)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT-P1: TRUE COPY OF THE REPRESENTATION DATED 17.11.2013 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXHIBIT-P2: TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE 1ST RESPONDENT DATED 23/12/2013.

EXHIBIT-P3: TRUE COPY OF THE REPRESENTATION DATED 21/03/2015 SUBMITTED BY THE PETITIONER.

EXHIBIT-P4: TRUE COPY OF THE NOTICE DATED 08/06/2015 ISSUED BY THE ADVOCATE COMMISSIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.19239 of 2015

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Dated this the 15th day of October, 2015

J U D G M E N T

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.P2 is the possession notice. Ext.P4 is the notice issued by the Advocate Commissioner. 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) The total overdue amount in respect of the loan availed by the petitioner is stated to be Rs.5,25,434/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.5,25,434/- together with accrued interest in ten equal and successive monthly instalments commencing from 01.11.2015, and continues to keep up the regular instalments as per the original loan schedule, further proceedings against the petitioner 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/15.10.15