IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

WP(C).No. 19866 of 2015 (G)

PETITIONER(S):

ABDUL SAHIL, S/O.RAHMATH,
AGED 44 YEARS, ISRATH MANZIL, MANAL,
POST CHEMNAD, KASARAGOD -671 317.

BY ADV. SRI.S.JIJI.

RESPONDENT(S):
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1. THE KASARAGOD DISTRICT CO-OPERATIVE BANK LTD., KASARAGOD MAIN BRANCH, KASARAGOD DISTRICT- 671 121, REPRESENTED BY ITS MANAGER.

2. THE AUTHORISED OFFICER UNDER SARFAESI ACT, THE KASARAGOD DISTRICT CO-OPERATIVE BANK LTD., HEAD OFFICE, KASARAGOD, P.B.NO.48, NAYAK'S ROAD, KASARAGOD DISTRICT- 671 121.

BY ADV. SRI.JAWAHAR JOSE, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 19866 of 2015 (G)

APPENDIX

PETITIONER'S EXHIBITS:-

P1- TRUE COPY OF THE NOTICE OF POSSESSION ISSUED BY THE 2ND RESPONDENT DATED 17.03.2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

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W.P.(C) No. 19866 of 2015

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Dated this the 2nd day of July, 2015

JUDGMENT

The petitioner, impugning SARFAESI proceedings, has approached this Court. The petitioner defaulted repayment of the regular EMI. Consequently, the Bank initiated SARFAESI proceedings.

2. The petitioner prays for an instalment facility to discharge the entire liability in 15 monthly instalments.

3. Learned counsel for the Bank opposes the prayer of the petitioner and submits that the third party has filed a suit before the Sub Court, which is numbered as O.S.No.36/2013 and attached the secured asset in O.S.No.36/2013 and he is attempting to recover his debt from the secured asset.

4. It appears that the attachment has been effected by the proceedings in O.S.No.36/2013 on the file of the Sub Court, Kasaragod.

Considering the facts and circumstances, this writ petition is disposed of with the following directions:

1. The petitioner shall pay Rs.50,000/- starting from 1.8.2007 onwards in six equal monthly instalments.
2. Thereafter, the petitioner shall discharge the entire balance amount in lump sum along with future interest in the succeeding month.
3. If the petitioner fails to honour anyone of the instalments, the Bank is free to proceed against the petitioner in accordance with law.
4. The Sub Court, Kasaragod is directed to issue notice in the event, any sale is initiated in respect of the mortgaged property to the respondent Bank pursuant to any proceedings in O.S.No.36/2013.
5. The petitioner/respondent Bank shall produce a copy of this judgment before the Sub Court, Kasaragod.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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