IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

WP(C).No. 19973 of 2015 (V)

PETITIONER(S):

ANTONY JOLLY, AGED 65 YEARS,
S/O C.M.MATHEW, HOUSE NO.XI/276, PUTHANGADY HOUSE,
THRIKKAKARA .O., CRASH ROAD, ERNAKULAM-682012.

BY ADV. SRI.S.S.RAJESH

RESPONDENT(S):

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1. STATE OF KERALA,
REPRESENTED BY THE FINANCE SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.

2. THE MANAGER,
KOTAK MAHINDRA PRIMA LIMITED, 4TH FLOOR,
THADIKKARAN CENTRE, PALARIVATTOM, COCHIN-682025.

3. THE AUTHORIZED OFFICER,
DEWAN HOUSING FINANCE CORPORATION LTD., NO.82,
1ST FLOOR, ABOVE IDBI BANK, DR. RAJKUMAR ROAD,
2ND BLOCK, RAJAJI NAGAR, BANGALARU-560010.

4. THE DISTRICT POLICE CHIEF
ERNAKULAM-682030.

R1 & 4 BY GOVERNMENT PLEADER SRI.R.RENJITH
R3 BY ADV. SRI.P.PAULOCHAN ANTONY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 19973 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE LOAN STATEMENT ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P2: TRUE COPY OF THE LAWYER NOTICE DATED 8.3.2015 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P3: TRUE COPY OF THE RECEIPT NO.2059335 DATED 27.4.2015 FROM DEWAMN HOUSING FINANCE CORPORATION LTD.

EXHIBIT P4: TRUE COPY OF THE DEMAND NOTICE DATED 8.5.2015 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P5: TRUE COPY OF THE REPRESENTATION DATED 28.5.2015 BY THE PETITIONER.

EXHIBIT P6: TRUE COPY OF THE REPRESENTATION DATED 10.6.2015 BY THE PETITIONER TO THE 4TH RESPONDENT.

EXHIBIT P7: TRUE COPY OF NOTICE DATED 4/9/15 ISSUED BY THE ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 19973 of 2015

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Dated this the 15th day of December, 2015

JUDGMENT

The petitioner, who had availed of a housing 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.P4 is the notice issued to the petitioner under Section 13(2) of the SARFAESI Act. 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 appearing on behalf of the respondents.

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 installments. 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, is stated to be Rs.27,60,577/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.27,60,577/- together with accrued interest in six equal and successive monthly installments commencing from 28.12.2015, and continues to keep up the regular installments as per the original loan schedule, then the recovery steps initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits a default in respect of any of the installments, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /15.12.15