IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

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

WP(C).No. 21780 of 2015 (V)

PETITIONER:

MANMITH T.N. AGED 36 YEARS
S/O. NARAYANAN, PROPRIETOR, NEST MARKETING
THAMARAKULAM SHOPPING COMPLEX, MAMPETTA
KOZHIKODE - 673 602.

BY ADVS.SRI.SHARAN SHAHIER
SRI.V.S.SHIRAZ BAVA

RESPONDENTS:
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1. THE CHIEF MANAGER/AUTHORISED OFFICER
THE SOUTH INDIAN BANK LIMITED, REGIONAL OFFICE
HAPPY TOWERS, VAIKOM MOHAMMED BASHEER ROAD, MANANCHIRA
KOZHIKODE - 673 001.

2. THE MANAGER,
THE SOUTH INDIAN BANK LIMITED, 5/3410
GALLERIA TRADE CENTRE, NEAR MARKAS COMPLEX
MAVOOR ROAD, KOZHIKODE - 673 004.

BY ADV. SRI.K.K.JOHN,SC,SOUTH INDIAN BANK

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

WP(C).No. 21780 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT-P1-	**TRUE COPY OF THE LETTER DATED 24/01/2014 SANCTIONING/ RENEWING THE CREDIT FACILITY.**
EXHIBIT-P2-	**TRUE COPY OF THE COMMUNICATION DATED 08/01/2015 ISSUED BY THE 2ND RESPONDENT.**
EXHIBIT-P3-	**TRUE COPY OF THE DEMAND NOTICE DATED 19/05/2015 ISSUED UNDER SECTION 13 (2) OF THE SARFAESI ACT.**
EXHIBIT-P4-	**TRUE COPY OF THE COMMUNICATION DATED 09/05/2015 ISSUED BY THE RESPONDENT.**
EXHIBIT-P5-	**TRUE COPY OF THE REPRESENTATION DATED 10/06/2015 SUBMITTED BY THE PETITIONER.**
EXHIBIT-P6-	**TRUE COPY OF THE REPLY NOTICE DATED 29/06/2015 ISSUED BY THE PETITIONER.**
EXHIBIT-P7-	**TRUE COPY OF THE REPLY DATED 13/07/2015 ISSUED BY THE IST RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 21780 of 2015 (V)

Dated this the 15th day of October, 2015

J U D G M E N T

The petitioner is aggrieved with the SARFAESI proceedings, proceeded against by the respondent Bank for realisation of dues.

2. The petitioner, admittedly, has an Overdraft facility and Term Loan, both of which were renewed on 24.01.2014, as is indicated in Ext.P2. The Overdraft limit was 4.75 crores and the Term Loan 1.75 crores, the latter to be satisfied within a period of five years. Admittedly, both are in arrears and there are dues to the Bank, which have not been satisfied for long; in which event only the petitioner's loan accounts were declared as 'Non Performing Assets' (NPA).

3. The learned Standing Counsel for the Bank submits that even as per Ext. P2 dated 08.01.2015, the Bank had directed the petitioner to produce the Balance

Sheet and financial statements as required thereunder, as also to provide for sufficient stock, after examination of which alone the limit could be decided; which has a direct bearing on the stock kept by the petitioner. The learned Standing Counsel also submits that, as of now, there is a debit balance of 1.57 crores in the Term Loan and 40.99 lakhs is overdue. The learned counsel insists that the Term Loan has to be cleared immediately.

4. Considering only the circumstance of the petitioner's specific undertaking that the loans would be satisfied in a time bound manner, it is directed that the petitioner shall clear the overdue amounts in the Term Loan within a period of three months starting from 15.11.2015 and the further instalments on the 15th of the two succeeding months. The petitioner shall pay the first two instalments of 15 lakhs each and the balance as the third instalment. It is made clear that the remittance so made of the overdue amounts would be in addition to the equated

monthly instalments in the loan account, which would have to be satisfied by the petitioner on the due date itself. As to the renewal of the overdraft facilities, the petitioner would have to submit the entire documents as required by the Bank and convince the Bank that there is sufficient stock to maintain an Overdraft account, within a period of one month from today. If either or any of the conditions are not complied with, then the petitioner can be proceeded with for recovery.

The writ petition would stand disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE

//True Copy//

P.A. to Judge

jjj 15/10/15