IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No.25631 of 2014 (D)

PETITIONER:

MRS.ELIZABETH BIJI YESUDAS,W/O.YESUDASS JOHN,
AGED 43 YEARS,M/S.J.J.MARKETING AGENCIES,
RESIDING AT KC-36/373,KRA 124,KANIMEL NAGAR,
ERAVIPURAM,KOLLAM-691011.

BY ADV. SRI.SUNNY ZACHARIAH

RESPONDENTS:
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1. **ING VYSYA BANK,KOLAM BRANCH,AGC COMPLEX,**
   BEACH ROAD,KOLLAM-691001,
   REPRESENTED BY ITS AUTHOIRSED OFFICER.

2. **ING VYSA BANK,REGD.& CORP.OFF:**
   THROUGH ITS AUTHORISED OFFICER,
   ING VYSYA HOUSE, #22,M.G.ROAD,
   BANGALORE-1.

R1 & R2 BY SRI.R.S.KALKURA,S.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No.25631 of 2014 (D)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1-TRUE COPY OF THE DISCHARGE SUMMARY OF THE PETITIONERS' HUSBAND YESUDASS JOHN.

EXHIBIT P2-THE REQUEST DATED 11-04-2014 BY THE PTITIONER.

EXHIBIT P3-A TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT DATED 01-07-2014 UNDER SECTION 13(2) OF THE SARFASEI ACT.

EXHIBIT P4-A TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT DATED 10-09-2014 UNDER SECTION 13(4) READ WITH RULES 8(1) OF THE SARFASEI ACT.

RESPONDENT'S EXHIBITS:

EXT.R1(a):TRUE COPY OF THE NOTICE UNDER SECTION 13(2) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 DATED 1.7.2014 ISSUED BY THE BANK TO THE PETITIONER AND OTHERS.

EXT.R1(b):TRUE COPY OF THE PAPER PUBLICATION DATED 15.9.2014 IN INDIAN EXPRESS.

EXT.R1(c):TRUE COPY OF THE PAPER PUBLICATION DATED 15.9.2014 IN MANGALAM.

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.25631 of 2014

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Dated this the 5th day of March, 2015

<u>J U D G M E N T</u>

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.P3 is the copy of the notice issued under Section 13 (4) read with Rule 8(1) 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 Sri.Sunny Zachariah, the learned counsel for the petitioner and Sri.R.S.Kalkura, the learned Standing Counsel appearing on behalf of 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 amount outstanding from the petitioner to the respondent bank, in respect of the loan, is stated to be Rs.75,96,820/- together with accrued interest. Accordingly, if the petitiuoner pays an amount of Rs.3,00,000/- on or before 30.03.2015, and thereafter, Rs.4,00,000/- each in equal and successive monthly instalments between 20.04.2015 and 20.12.2015 (both inclusive), and the balance outstanding amount thereafter, by 20.01.2016, then further proceedings for recovery of loan amounts from 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 currently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/