IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

WP(C).No. 25536 of 2015 (N)

PETITIONER(S):

SAJI C GEORGE AGED 48 YEARS
S/O.VARKEY, RESIDING AT CHERUVALLIPARAMBIL HOUSE
GANDHI NAGAR P.O, KOTTAYAM PIN 686 008
PROPRIETOR OF THE PENTA CONSTRUCTIONS
VILANGAMPRA BUILDINGS, GOOD SHEPHERD ROAD
KOTTAYAM 686 001.

BY ADV. SRI.ABRAHAM GEORGE JACOB

RESPONDENT(S):
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1. ORIENTAL BANK OF COMMERCE
KORATTIYIL COMPLEX, SASTRI ROAD, KOTTAYAM 686 001
REPRESENTED BY ITS MANAGER.

2. THE AUTHORISED OFFICER
ORIENTAL BANK OF COMMERCE, KORATTIYIL COMPLEX
SASTRI ROAD, KOTTAYAM 686 001.

R1&2 BY ADV. SRI.P.P.JOYI, STANDING COUNSEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 25536 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. **COPY OF THE RECALL NOTICE DATED 5.1.15 ISSUED BY THE 2ND RESPONDENT.**

EXHIBIT P2. **COPY OF THE LETTER DATED 29.5.15 ISSUED BY THE PETITIONER TO THE IST RESPONDENT BANK.**

EXHIBIT P3. **COPY OF THE POSSESSION NOTICE DATED 24.6.15 ISSUED BY THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS
-------------------------------------- **nil**

// True copy //

PA to Judge

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A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 25536 of 2015
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Dated this the 10th day of September, 2015

JUDGMENT

The petitioner, who had availed a cash credit 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 notice issued to the petitioner under Section 13(4) 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.Abraham George Jacob, the learned counsel appearing on behalf of the petitioner as also Sri.P.P.Joyi, the learned Standing Counsel appearing on behalf of the respondents. The learned Standing Counsel for the respondent bank would vehemently oppose any indulgence to be shown by this Court to the petitioner.

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 cash credit loan, is stated to be 78,000/- over and above Rs.15,00,000/- that has already been drawn by the petitioner under the Cash Credit facility. Accordingly, if the petitioner remits an amount of Rs.1,50,000/- in two equal and successive monthly installments commencing from 30.09.2015, and continues to comply with the other conditions with regard to the maintenance of the Cash Credit facility as insisted by the respondent bank, 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 conditions/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

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