IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

W.P(C).No. 25564 of 2015 (U)

PETITIONER :

ABBAS P.B.,
S/O.BHUHARI,
AGED 46 YEARS,
1-115-A, PALLATH HOUSE,
ULINANNOR DESOM,
ULINANNOR P.O.,
ALUVA VILLAGE,
ALUVA TALUK,
ERNAKULAM DT.

BY ADVS.SMT.M.R.REENA
SRI.P.S.SUJETH

RESPONDENTS :

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1. THE BRANCH MANAGER,
ALLAHABAD BANK, ERNAKULAM BRANCH
SABU & CYPRIAN BUILDING,
R.MADHAVAN NAIR ROAD,
OPP.DOLPHIN CLUB,
ERNAKULAM, PIN-682016.

2. THE CHIEF MANAGER/AUTHORIZED OFFICER,
ALLAHABAD BANK, ERNAKULAM BRANCH
SABU & CYPRIAN BUILDING,
R.MADHAVAN NAIR ROAD,
OPP.DOLPHIN CLUB,
ERNAKULAM, PIN-682016.

R1&R2 BY ADV. SRI.K.P.RAMACHANDRAN,SC,ALLAHABAD BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS

EX.P1	**THE TRUE COPY OF THE STATEMENT OF ACCOUNTS DATED FROM 24.11.2006 TO 11.08.2015.**
EXT.P2	**THE TRUE COPY OF THE POSSESSION NOTICE DATED 28.07.2015.**
EXT.P3	**TRUE COPY OF THE REPRESENTATION DATED 05.08.2015.**

RESPONDENT'S EXHIBITS

EXT.R2(a)	**TRUE PHOTOSTAT COPY OF THE NOTICE DATED 04.02.2011 ISSUED UNDER SECTION 13(2) OF THE SARFAESI ACT TO THE PETITIONER.**
EXT.R2(b)	**TRUE PHOTOSTAT COPY OF THE NOTICE DATED 31.03.2011 ISSUED BY THE BANK TO THE PETITIONER.**
EXT.R2(c)	**TRUE PHOTOSTAT COPY OF THE NOTICE DATED 04.11.2013 ISSUED UNDER SECTION 13(2) OF THE SARFAESI ACT TO THE PETITIONER.**
EXT.R2(d)	**TRUE PHOTOSTAT COPY OF THE POSSESSION NOTICE DATED 24.06.2014.**
EXT.R2(e)	**TRUE PHOTOSTAT COPY OF THE UPGRADATION REQUEST LETTER DATED 24.06.2014 SUBMITTED BY THE PETITIONER TO THE BANK TO UPGRADE HIS LOAN ACCOUNT AND GIVING CONSENT TO INITIATE ACTION IN FURTHER DEFAULT.**

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EXT.R2(f)	TRUE PHOTOSTAT COPY OF THE NOTICE DATED 26.03.2015 ISSUED UNDER SECTION 13(2) OF THE SARFAESI ACT TO THE PETITIONER.
EXT.R2(g)	TRUE PHOTOSTAT COPY OF THE MASTER CIRCULAR DATED 01.07.2014 OF THE RESERVE BANK OF INDIA.
EXT.R2(h)	TRUE PHOTOSTAT COPY OF THE RECOVERY MANAGEMENT POLICY (ONLY RELEVANT PAGES AND PORTIONS) OF THE RESPONDENT BANK DATED 17.04.2015.

//TRUE COPY//

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.25564 OF 2015 (U)

Dated this the 22nd day of September, 2015

J U D G M E N T

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.P2 is the possession 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 for the petitioner as also the learned Standing counsel appearing for 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 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 as of today, is stated to be Rs.1,40,000/- together with accrued interest. Accordingly, if the petitioner remits the above amount of Rs.1,40,000/- in eight equal and successive monthly installments commencing from 15.10.2015, and continues to keep up the regular installment payments 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

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