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. 25791 of 2015 (Y)

PETITIONER :

HARIHARAN.P.V,
S/O. VELUKUTTY,
AGED 48 YEARS,
PULIKAL HOUSE,
EDAVANAKAD DESOM,
EDAVANAKAD VILLAGE,
EDAVANAKAD P.O.,
KOCHI TALUK,
ERNAKULAM-682 502.

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-682 016.

bpr

W.P.(C).No. 25791 of 2015 (Y)
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2. THE CHIEF MANAGER/AUTHORIZED OFFICER,
ALLAHABAD BANK,
ERNAKULAM BRANCH,
SABU & CYPRIAN BUILDING,
R.MADHAVAN NAIR ROAD,
OPP.DOLPHIN CLUB,
ERNAKULAM-682 016.

R1 & R2 BY ADV.SRI.K.P.RAMACHANDRAN,
SC,ALLAHABAD BANK.
BY ADV.SRI.B.BALA PRASANNAN,
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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W.P.(C).No. 25791 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF THE POSSESSION NOTICE DATED 28.07.2015 WHICH IS PUBLISHED IN THE MATHRUBHUMI DAILY.

EXT.P2 COPY OF THE REPRESENTATION DATED 04.08.2015.

RESPONDENT'S EXHIBITS

EXT.R2(A) TRUE PHOTOSTAT COPY OF THE MASTER CIRCULAR DATED 01.07.2014 OF THE RESERVE BANK OF INDIA.

EXT.R2(B) TRUE PHOTOSTAT COPY OF THE RECOVERY MANAGEMENT POLICY OF THE RESPONDENT BANK DATED 17.04.2015 (ONLY RELEVANT PAGES AND PORTIONS).

EXT.R2(C) TRUE PHOTOSTAT COPY OF THE POSSESSION NOTICE DATED 28.07.2015, SERVED DIRECTLY BY THE BANK TO THE PETITIONER, SIGNED ON BEHALF OF HIM ON 31.07.2015.

//TRUE COPY//

P.A. TO JUDGE

bpr

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.25791 OF 2015 (Y)

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.P1 is the possesssion 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.2,34,800/- together with accrued interest. Accordingly, if the petitioner remits the above amount of Rs.2,34,800/- together with accrued interest in six 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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