IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

WP(C).No. 26118 of 2015 (L)

PETITIONER(S):

VIJAYAN K.R AGED 49 YEARS
S/O.RAGHAVAN NAIR, KIZHAKKEMALAYIL HOUSE
PERUMPILLY P.O., MULANTHURUTHY, ERNAKULAM.

BY ADV. SMT.E.V.MOLY

RESPONDENT(S):

SOUTH INDIAN BANK
REGIONAL OFFICE, INFO PARK ROAD, RAJAGIRI VALLEY
KAKKANAD, ERNAKULAM-682 039
REPRESENTED BY ITS AUTHORIZED OFFICER.

R BY SRI.GEORGE VARGHESE,SC,SOUTH INDIAN BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 26118 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1. **TRUE COPY OF THE POSSESSION NOTICE DATED 1/8/2015 ISSUED UNDER SARFAESI ACT.**

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

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 26118 of 2015
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Dated this the 8th day of September, 2015

JUDGMENT

The petitioner, who had availed of a housing loan and also stood guarantee for an Over Draft facility that was availed by his wife 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 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 the learned counsel appearing on behalf of the petitioner as also the learned Standing Counsel appearing on behalf of the respondents.

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 housing loan, is stated to be Rs.85,000/- together with accrued interest. Similarly, the excess amount drawn in the Over Draft account is stated to be Rs.63,000/- over and above the limit of Rs.5,00,000/- for the said account. Accordingly, if the petitioner remits the amount of Rs.85,000/- in respect of the housing loan, together with accrued interest, and an amount of Rs.75,000/- towards the Over Draft account, in four equal and successive monthly installments commencing from 30.09.2015, and continues to keep up the regular installment payments as per the original loan schedule, in respect of the housing loan and furnishes the documents required by the bank and also complies with the conditions imposed by the bank for continuing the Over Draft facility, 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/conditions, 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

das