IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

WP(C).No. 26502 of 2015 (K)

PETITIONER :

DINESH ISAAC KURIEN, AGED 43 YEARS,
S/O.ISAAC KURIEN, D 73, DANIELA VILLA,
PIRIYIL, PEYAD P.O, THIRUVANANTHAPURAM- 695 073.

BY ADVS.SRI.K.R.VINOD
MS.JENCY SUSAN JOSE
SRI.V.SRI NATH

RESPONDENT :

THE STATE BANK OF INDIA,
R.A.C.P.C, L.M.S COMPOUND, THIRUVANANTHAPURAM-695 033,
REP. BY ITS CHIEF MANAGER/AUTHORIZED OFFICER.

BY ADV. SRI.R.S.KALKURA, SC, SBI
SRI.N.RAJAGOPALAN NAIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

sts

WP(C).No. 26502 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE SALE NOTICE ISSUED BY THE RESPONDENT.

EXHIBIT P2. COPY OF THE RECEIPT ISSUED BY THE RESPONDENT ACKNOWLEDGING RS.30,000/- DATED 04/09/2015

RESPONDENT(S)' EXHIBITS AND ANNEXURES:

ANNEX R1(A) COPY OF THE STATEMENT OF ACCOUNT IN RESPECT OF THE PETITIONER'S LOAN ACCOUNT FOR THE PERIOD FROM 30/10/2009 TO 08/11/2015.

ANNEX R1(B) COPY OF THE INTEREST CALCULATION SHEET IN RESPECT OF THE PETITIONER'S LOAN ACCOUNT.

/TRUE COPY/

P.S.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.26502 OF 2015 (K)

Dated this the 27th day of November, 2015

J U D G M E N T

The petitioner, who had availed of a loan from the respondent company, 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 copy of the sale notice issued to the petitioner under the SARFAESI Act. It is stated by counsel for the respondent bank that in compliance with the directions in the interim order dated 16.10.2015, the respondent bank had handed over possession of the vehicle to the petitioner on receiving an amount of Rs.50,000/- from the petitioner. It is pointed out, however, that the petitioner is a chronic defaulter, and there were several occassions in the past when the petitioner defaulted in repayment in time. Taking note of the said fact, it is the prayer of the respondent bank that the petitioner should now be called upon to discharge his outstanding liability from the bank, if need be, in installments.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing counsel appearing for the respondent

bank.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, and also taking note of the plea of counsel for the respondent bank against the extension of a regularisation option to the petitioner, I dispose the writ petition with the following directions:-

(i) The total amount outstanding from the petitioner to the respondent bank, is stated to be Rs.4,07,537/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.4,07,537/- together with accrued interest in ten equal and successive monthly installments commencing from 21.12.2015, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is further 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/27/11/15