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. 26510 of 2015 (K)

PETITIONER(S) :
----

1. THOMAS
   S/O.BASALIOUS, AGED 68 YEARS
   KIDATHARAYIL HOUSE, ANAKKAMPOYIL P.O.,
   KOZHIKODE DISTRICT.

2. SIBI THOMAS
   S/O.THOMAS, AGED 43 YEARS
   KIDATHARAYIL HOUSE, ANAKKAMPOYIL P.O.,
   KOZHIKODE DISTRICT.

   BY ADVS.SRI.P.R.SREEJITH
   SRI.M.PROMODH KUMAR
   SMT.MAYA CHANDRAN

RESPONDENT(S) :
----

1. THE MANAGER
   KOZHIKODE DISTRICT CO-OPERATIVE BANK LIMITED
   MUKKAM BRANCH, MUKKAM P.O.,
   KOZHIKODE DISTRICT, PIN - 673 017.

2. THE AUTHORISED OFFICER/GENERAL MANAGER
   KOZHIKODE DISTRICT CO-OPERATIVE BANK LIMITED
   KALLAI ROAD, P.O. CHALAPPURAM
   KOZHIKODE DISTRICT - 673 002.

   R1 & R2 BY ADV. SRI.R.SUDHISH, SC

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

Mn

WP(C).No. 26510 of 2015 (K)

APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT P1. **COPY OF THE NOTICE DATED 20.8.2015 IN CMP.NO. 1597/2015 OF THE CHIEF JUDICIAL MAGISTRATE, KOZHIKODE.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).No.26510 of 2015

Dated this the 8th day of September, 2015

J U D G M E N T

The petitioner, who had availed of a consumption 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 notice issued by the Advocate Commissioner. 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 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 instalments. Taking into account the plea of financial hardship raised by 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.19,23,874/- together with accrued interest. Accordingly, if the petitioner pays an amount of Rs.2,00,000/- on or before 30.09.2015, and pays the balance amount of Rs.17,23,874/- together with accrued interest in 10 equal and successive monthly instalments commencing from 30.10.2015, then further proceedings for recovery shall be kept in abeyance.

(ii) It is made clear that, if the petitioner commits a default in respect of any of the instalments, 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.

(iii) I make it clear that, nothing in this judgment shall stand in the way of the respondents considering any request made by the petitioner for extension of any benefit under the One Time Settlement Scheme.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns