IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K. JAYASANKARAN NAMBIAR

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

WP(C).No. 26680 of 2015 (H)

PETITIONER :

SUBAIR P.A., AGED 42 YEARS,
S/O AYAMUTTY, RESIDING AT POOVATHINGAL HOUSE,
HOUSE NO.46/87, PEZHUMKARA, PALLIPURAM POST,
PALAKKAD DISTRICT.

BY ADVS.SRI.T.C.SURESH MENON
SRI.P.S.APPU

RESPONDENTS :
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1. ORIENTAL BANK OF COMMERCE,
PALAKKAD BRANCH, PALAKKAD - 678001
REPRESENTED BY ITS BRANCH MANAGER.

2. THE AUTHORISED OFFICER
ORIENTAL BANK OF COMMERCE, PALAKKAD-678001.

R1 & R2 BY SRI.SAJI P.JOSEPH, SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 26680 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE NOTICE ISSUED BY THE DISTRICT LEGAL SERVICES AUTHORITY, PALAKKAD DATED 20.11.2014.

EXHIBIT P2: TRUE COPY OF THE SALE NOTICE ISSUED BY THE 2ND RESPONDENT DATED 19.11.2014.

EXHIBIT P3: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT BANK DATED 31.8.2015.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 26680 of 2015
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Dated this the 4th day of September, 2015

JUDGMENT

The petitioner, who had availed a 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 sale notice issued to the petitioner under 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 as on 31.08.2015 in respect of the loan, is stated to be Rs.37,80,615/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.37,80,615/- together with accrued interest in twelve equal and successive monthly installments commencing from 30.09.2015, 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

das