IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WP(C).No. 26859 of 2015 (F)

PETITIONER :

AUGUSTINE THOMAS, AGED 52 YEARS,
S/O. THOMAS, KUMBUKKAT, PANAMATTOM P.O.,
KOTTAYAM DISTRICT.

BY ADVS.SRI.C.P.UDAYABHANU
SRI.R.MANOJ

RESPONDENTS :
----

1. THE KOTTAYAM DISTRICT CO-OPERATIVE BANK,
KOTTAYAM - 686 002.

2. THE AUTHORISED OFFICER KOTTAYAM DISTRICT CO-OPERATIVE,
BANK, KOTTAYAM - 686 002.

3. THE KOTTAYAM DISTRICT CO-OPERATIVE BANK,
PAIKA BRANCH, REPRESENTED BY ITS MANAGER, PAIKA
KOTTAYAM - 686 002.

R1 TO R3 BY SRI.SUNIL CYRIAC, SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

bp

WP(C).No. 26859 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER DATED 08/02/2013.

EXHIBIT-P2: TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT DATED 22/09/2014.

EXHIBIT-P3: TRUE COPY OF THE C.M.P 1917/2015 ON THE FILES OF THE CJM COURT, KOTTAYAM DATED 15/06/2015.

EXHIBIT-P4: TRUE COPY OF THE AFFIDAVIT FILED ALONG WITH EXHIBIT-P3 BEFORE THE JFCM, KOTTAYAM DATED 15/06/2015.

EXHIBIT-P5: TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER BY THE ADVOCATE COMMISSIONER DATED 19/08/2015.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.26859 of 2015

....

Dated this the 7th day of September, 2015

J U D G M E N T

The petitioner, who had availed of 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.P5 is the notice issued to the petitioner 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 and 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 overdue amount in respect of the loan availed by the petitioner is stated to be Rs.1,06,230/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,06,230/- together with accrued interest in five equal and successive monthly instalments commencing from 30.09.2015, and continues to keep up the regular instalments as per the original loan schedule, then the recovery steps initiated against the petitioner 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 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns