IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

WP(C).No. 26895 of 2015 (J)

PETITIONER(S):

BENAZIR HUSSAIN, AGED 30 YEARS
W/O.SAFEEQ MUHAMMED, KARUPARAMBATHU, THENJIPPALAM
THIROORANGADY, MALAPPURAM.

BY ADVS.SRI.BINU GEORGE
SMT.HEMALATHA

RESPONDENT(S):

1. AUTHORIZED OFFICER, DEWAN HOUSING FINANCE CORPORATION LTD.
D NO.299/D2/D3, 2ND FLOOR, MARINA MALL
YMCA CROSS ROAD, KOZHIKODE DISTRICT, PIN-673 001.

2. BRANCH MANAGER
DEWAN HOUSING FINANCE CORPORATION LTD.
D NO.299/D2/D3, 2ND FLOOR, MARINA MALL
YMCA CROSS ROAD, KOZHIKODE DISTRICT, PIN-673 001.

R1-R2 BY ADV. SRI.P.PAULOCHAN ANTONY
R1-R2 BY ADV. SRI.G.AJITH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 26895 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - A TRUE COPY OF STATEMENT OF ACCOUNT

P2 - A TRUE COPY OF RECEIPT DATED 29.4.2015

P2(A) - A TRUE COPY OF RECEIPT DATED 30.4.2015

P2(B) - A TRUE COPY OF RECEIPT DATED 9.6.2015

P3 - A TRUE COPY OF PAPER PUBLICATION DATED 20.11.2014 IN THE HINDU DAILY

P4 - A TRUE COPY OF ADVOCATE COMMISSIONER NOTICE DATED 19.8.2015

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.26895 of 2015

....

Dated this the 17th day of September, 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 company 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.P4 is the notice issued by the Advocate Commissioner. In the writ petition, the petitioner impugns the steps initiated by the respondent company 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 company.

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 company 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.6,73,124/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.6,73,124 /- together with accrued interest in four equal and successive monthly instalments commencing from 15.10.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner by the respondent company 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 company will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns