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. 26906 of 2015 (K)

PETITIONER :

JALAM.K.B, AGED 45 YEARS,
S/O. ABOOBACKER, KALLELIL HOUSE,
PALLARAMANGALAM.P.O., ADIVADU,
ERNAKULAM DISTRICT.

BY ADVS.SRI.K.S.ARUN KUMAR
SRI.C.N.MOHANAN (CHAPPURAIL)

RESPONDENT(S):
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1. THE CANARA BANK,
   ADIVADU BRANCH, PALLARAMANGALAM P.O,
   ADIVAD, KOTHAMANGALAM, ERNAKULAM DISTRICT,
   REP. BY CHIEF MANAGER/AUTHORIZED OFFICER,
   PIN- 686 671

2. CHIEF MANAGER/AUTHORIZED OFFICER,
   THE CANARA BANK, ADIVADU BRANCH,
   PALLARAMANGALAM P.O., ADIVADU,
   KOTHAMANGALAM, ERNAKULAM DISTRICT, PIN -686 671

R1 & R2 BY SRI.P.P.JOYI

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

sts

WP(C).No. 26906 of 2015 (K)
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APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1	**TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENTS DATED 08-10-2012**
EXHIBIT P2	**TRUE COPY OF THE NOTICE DATED 11/08/2015 UNDER SECTION 13(4) OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002**
EXHIBIT P3	**TRUE COPY OF THE ACCOUNT DETAILS OF THE PETITIONER.**

RESPONDENT(S)' EXHIBITS: **NIL**
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/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 26906 of 2015

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Dated this the 8th 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 notice issued to the petitioner under Section 13(4) of 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. The learned counsel for the respondent bank would vehemently oppose any indulgence to be shown by this Court to the petitioner. It is his contention that various amounts have been incurred by the bank in connection with the recovery of the due amounts and those amounts will have to be recovered from the petitioner. It is also the case that the petitioner has approached this Court on the eve of the sale proceedings.

4. 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, in respect of the loan, is stated to be Rs.2,40,000/- together with accrued interest and other charges. Accordingly, if the petitioner remits the aforesaid amount of Rs.2,40,000/- together with accrued interest and other charges in four equal and successive monthly installments commencing from 30.09.2015, and continues to keep up the regular installment payments as per the original loan schedule, 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

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