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. 26924 of 2015 (M)

PETITIONER(S):

MOHAMMED ASHRAF M.,
S/O.MUHAMMED KUTTY, MANNINGAL HOUSE, AREECKAL,
P.O. KUTTIPPALA, EDARICODE VIA, MALAPPURAM DISTRICT.

BY ADV. SRI.A.KRISHNAN

RESPONDENT(S):
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1. **MALAPPURAM DISTRICT CO OPERATIVE BANK LTD.,**
   NOOR MAHAL, KOTTACKAL P.O., KOTTACKAL,
   MALAPPURAM PIN-676 503,
   REPRESENTED THROUGH ITS MANAGER.

2. **THE AUTHORISED OFFICER,**
   MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.,
   NOOR MAHAL, KOTTACKAL P.O., KOTTACKAL,
   MALAPPURAM, PIN-676 503.

BY ADV. SRI.E.S.M.KABEER, SC

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

msv/

WP(C).No. 26924 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE NOTICE DTD.8.3.2013.

EXT.P2: TRUE COPY OF THE LETTER DTD.19.1.2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 26924 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.P1 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. It is submitted by the learned counsel for the respondent bank that the possession of the secured asset has already been taken over.

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.5,73,453/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.5,73,453/- together with accrued interest in ten 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.

(iii) Upon the petitioner discharging the said liability, the respondent shall, without any further order, restore the possession of the secured asset to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das