IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 27266 of 2015 (G)

PETITIONER :

NOUFAL.P., AGED 30 YEARS,
S/O.LATE MOOSA @ BAVA, PETTAMMALVALAPPIL,
KUDALLUR POST, PATTAMBI TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.R.SREEHARI

RESPONDENT(S):
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1. **SUNDARAM BNP PARIBAS HOME FINANCE LIMITED,**
   SUNDARAM TOWERS, 46, WHITES ROAD,
   CHENNAI -600 014,
   REPRESENTED BY ITS MANAGING DIRECTOR.

2. **THE AUTHORISED OFFICER,**
   SUNDARAM BNP PARIBAS HOME FINANCE LIMITED,
   SUNDARAM TOWERS, 46, WHITES ROAD,
   CHENNAI- 600 014

3. **THE BRANCH MANAGER,**
   SUNDARAM BNP PARIBAS HOME FINANCE LIMITED,
   PALAKKAD BRANCH, 1ST FLOOR, 15/513 (50),
   AKSHAYA FOUNDATION, STADIUM BYE PASS ROAD,
   PALAKKAD - 678 001.

4. **PATHUMMA BAVA,**
   AGED 55 YEARS, W/O.LATE MOOSA @ BAVA,
   PATTAMMAL VALAPPIL, KUDALLUR POST, PATTAMBI TALUK,
   PALAKKAD DISTRICT, PIN-679 554

5. **NISHAD P.,**
   AGED 27 YEARS, S/O.LATE MOOSA @ BAVA,
   PATTAMMAL VALAPPIL, KUDALLUR POST, PATTAMBI TALUK,
   PALAKKAD DISTRICT, PIN-679 554

R1 TO R3 BY ADV. SRI.VARGHESE C.KURIAKOSE
R4 & R5 BY ADV. SRI.K.RAJESH SUKUMARAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 27266 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - PHOTO COPY OF THE NOTICE DATED 28.03.2015 ISSUED BY THE 2ND RESPONDENT.

P2 - PHOTO COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER APPOINTED IN CMP 3820/2015 OF CJM COURT, PALAKKAD.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.27266 of 2015

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Dated this the 12th day of October, 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.P2 is the notice issued 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 as 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.11,99,852/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.11,99,852/- together with accrued interest in five equal and successive monthly instalments commencing from 01.11.2015, and continues to keep up the regular instalments as per the original loan schedule, further proceedings against the petitioner 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/12.10.15