IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

WP(C).No. 27522 of 2015 (M)

PETITIONER :

ANEES.A,
S/O.ABDUL RAHMAN KUNJU,
PROPRIETOR OF M/S. FATHIMA TRADERS, MUKKAVALA,
KAYAMKULAM, ALAPPUZHA DISTRICT-690 559
RESIDING AT HANAS NIVAS, PERUNGALA P.O, KAYAMKULAM,
ALAPPUZHA DISTRICT, PIN-690 559.

BY ADVS.SRI.M.H.HANIL KUMAR
SRI.M.R.DHANIL
SMT.P.SREESHA
SRI.A.P.VASAVAN

RESPONDENT(S):
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1. **SOUTH INDIAN BANK,**
   REP BY ITS REGIONAL MANAGER, REGIONAL OFFICE,
   2ND FLOOR, T.M.J COMPLEX, RAMANCHIRA,
   P.O MUTHOOR, THIRUVALLA, PATHANAMTHITTA DISTRICT,
   PIN-689 107.

2. **AUTHORIZED OFFICER,**
   SOUTH INDIAN BANK, REGIONAL OFFICE, 2ND FLOOR,
   T.M.J COMPLEX, RAMANCHIRA, P.O MUTHOOR, THIRUVALLA,
   PATHANAMTHITTA DISTRICT. PIN-689 107.

BY SRI.K.K.JOHN,SC,SOUTH INDIAN BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.27522/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE RELEVANT PAGES OF DEMAND NOTICE DATED 14/11/2014 ISSUED BY THE FIRST RESPONDENT BANK LTD

P2 COPY OF THE POSSESSION NOTICE ISSUED BY THE 2ND RESPONDENT DATED 13/3/2015

P3 COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER TO THE PETITIONER DATED 1/9/2015

P4 COPY OF THE ACCOUNT STATEMENT OF M/S. FATHIMA TRADERS

P5 COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE RESPONDENTS DATED 7/9/2015.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.27522 of 2015

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Dated this the 11th day of September, 2015

J U D G M E N T

The petitioner, who had availed of a cash credit facility 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.P3 is the notice issued by the Advocate Commissioner. In the writ petition, the petitioners impugn 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 amount outstanding from the petitioner to the respondent bank is stated to be Rs.9,99,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.9,99,000/- together with accrued interest in 10 equal and successive monthly instalments commencing from 30.09.2015, then further proceedings for recovery of loan amounts from 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