IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 27756 of 2014 (T)

PETITIONER :

FARIS K.V.
S/O.MOOSA HAJI, KALLUVEETIL, UNNIKANDIYIL HOUSE,
PARAKKADAVU(PO), KOZHIKODE-673509.

BY ADV. SRI.K.PRAVEEN KUMAR

RESPONDENTS :
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1. **AUTHORISED OFFICER,**
   STATE BANK OF INDIA, REGIONAL OFFICE, IST FLOOR,
   SOUTHERN TRADE TOWER, PUSHPA JUNCTION,
   FRANCIS ROAD, KOZHIKODE-693001.

2. **THE BRANCH MANAGER, STATE BANK OF INDIA,**
   CHEKKIAD BRANCH, PARAKKADAVU(PO)
   KOZHIKODE-673509.

3. **THE CHIEF MANAGER,STATE BANK OF INDIA,**
   CHEKKIAD BRANCH, PARAKKADAVU(PO)
   KOZHIKODE-673509.

R1 TO R3 BY ADV. SRI.R.S.KALKURA, SC,
BY SMT.S.AMBILY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 27756 of 2014 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: **COPY OF THE JUDGMENT DATED 11-03-2014 WP(C)6718/2013 OF THIS HON'BLE COURT.**

EXT.P2: **COPY OF THE NOTICE INTIMATING OTS SCHEME ISSUED TO THE PETITIONER BY THE RESPONDET BANK.**

RESPONDENT(S)' EXHIBITS :

EXT. R1(A): **COPY OF THE LETTER DT 10/6/2013 ISSUED BY THE BANK TO THE PETITIONER.**

EXT.R1(B): **COPY OF THE NOTICE DT 9/7/2013 ISSUED BY THE COUNSEL OF THE PETITIONER.**

EXT.R1(C): **COPY OF THE REPLY NOTICE DT 25/7/2013 ISSUED BY THE R2 THROUGH HIS COUNSEL.**

EXT.R1(D): **COPY OF THE POSTAL RECEIPT EVIDENCING ISSUANCE OF EXHIBIT R1(C) BY THE 2ND RESPONDENT'S COUNSEL TO THE PETITIONER**

EXT.R1(E): **COPY OF THE STATEMENT OF ACCOUNT IN RESPECT OF THE VEHICLE LOAN STANDING IN THE NAME OF THE PETITIONER SHOWING THE AMOUNT AS ON 23/7/2013.**

EXT.R1(F): **COPY OF THE STATEMENT OF ACCOUNT OF THE VEHICLE LOAN ACCOUNT OF THE PETITIONER UP TO THE DATE OF IT BECOMING A NON-PERFORMING ASSET I.E. ON AS ON 15/2/2012.**

EXT.R1(G): **COPY OF THE INTEREST CALCULATION SHEET PERTAINING TO THE SAID LOAN FROM 15/2/2012 TIL 31/10/2014.**

EXT.R1(H): **COPY OF THE SBI OTS SCHEME.**

EXT.R1(I): **COPY OF THE LETTER DT 3/11/2014 ISSUED BY THE BANK TO THE PETITIONER.**

EXT.R1(J): **COPY OF THE LETTER DT 4/11/2014 ISSUED BY THE BANK TO THE PETITIONER INFORMING FURTHER CORRECTIONS IN EXHIBIT P2.**

EXT.R1(K): **COPY OF THE LETTER DT 25/9/2014.**

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.27756 of 2014

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Dated this the 23rd day of February, 2015

<u>J U D G M E N T</u>

The petitioner who had availed of a vehicle loan from the 2nd respondent, 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. It is pointed out that pursuant to the proceedings initiated by the respondent bank under the SARFAESI Act, the possession of the vehicle was also taken over by the respondent bank. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.K.Praveen Kumar, the learned counsel for the petitioner and Sri.R.S.Kalkura, the learned Standing Counsel appearing on behalf of the respondents.

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, in respect of the loan is stated to be Rs.94,660/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.94,660/- together with accrued interest in two equal and successive monthly instalments commencing from 05.03.2015, then further proceedings shall be kept in abeyance.

ii. I make it clear that, it will also be open to the petitioner to pay the aforesaid amount in lump sum within the period granted above. I make it clear that, within a period of one month from today, the respondent bank shall intimate the petitioner of the availability of the benefit under One time Settlement Scheme and if so, the respondent bank shall demand only the reduced amounts from the petitioner in accordance with the said Scheme.

iii. 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