IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 14TH DAY OF SEPTEMBER 2015/23RD BHADRA, 1937

WP(C).No. 27638 of 2015 (D)

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PETITIONER(S):

OLVIA BAKERS,
MEKALADY, KOTTAMAM ROAD, KAIPATOOR,
KALADY P.O., ERNAKULAM DISTRICT, PIN: 683 574,
REPRESENTED BY ITS PROPRIETOR MR.M.A.OLVIN

BY ADVS.SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SMT.SAVITHA GANAPATHIYATAN
SRI.M.M.SHAJAHAN

RESPONDENT(S):
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1. **BANK OF INDIA,**
   HEAD OFFICE, STAR HOUSE, C-5,
   G BLOCK, BANDRA KURLA COMPLEX, BANDRA (EAST),
   MUMBAI 400 051,
   REPRESENTED BY ITS MANAGING DIRECTOR.

2. **AUTHORISED OFFICER/BRANCH MANAGER,**
   BANK OF INDIA, KALADY BRANCH, KRISHNA TOWERS, VII/753-A,
   M.C.ROAD, KALADY P.O., ERNAKULAM,
   PIN: 683 574.

BY ADV. SRI.N.P.SETHU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 27638 of 2015 (D)
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APPENDIX

PETITIONER(S)' EXHIBITS

P1: **COPY OF THE DEMAND NOTICE UNDER SECTION 13(2) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT 2002 ISSUED BY THE 2ND RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No.27638 of 2015

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Dated this the 14th day of September, 2015

JUDGMENT

The petitioner, who had availed a business term loan from the 1st 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 notice issued to the petitioner under Section 13(2) of the SARFAESI Act. In the writ petition, the petitioner impugns the steps initiated by the 1st 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 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 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 as on 11/09/2015, in respect of the loan, is stated to be Rs.2,17,167/- (Rupees Two lakhs seventeen thousand one hundred and sixty seven) together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.2,17,167/- together with accrued interest in eight equal and successive monthly installments commencing from 15.10.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against him by the 1st 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 1st 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

rsr