IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

WP(C).No. 27735 of 2015 (N)

PETITIONER :

T.P.P. ANWAR,
AGED 46 YEARS,
S/O.AMMED HAJI,
THAZHE PUTHAN PEEDIKAYIL HOUSE,
MUTHUVADATHUR.P.O., VIA-PURAMERI,
VATAKARA TALUK, KOZHIKODE DISTRICT,
PIN - 673 503.

BY ADVS.SRI.U.P.BALAKRISHNAN
SRI.K.R.AVINASH (KUNNATH)

RESPONDENTS :

1. THE AUTHORISED OFFICER,
KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, P.B.No.503, CHALAPPURAM.P.O.,
KOZHIKODE - 673 001.

2. KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.,
ORKKATTERI BRANCH,
REPRESENTED BY ITS MANAGER,
P.O.ORKKATTERI PIN - 673 501.

BY SRI.R.SUDHISH, SC, KOZHIKODE DIST.CO.OP. BANK LTD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 27735 of 2015 (N)

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1	:	COPY OF THE NOTICE DTD.12.1.2015.
EXT.P2	:	COPY OF THE INSPECTION NOTICE DTD.7.3.2015.
EXT.P3	:	COPY OF THE CASE SUMMARY ISSUED BY THE DEPARTMENT OF GASTROENTEROLOGY, KASTURBA HOSPITAL, MANIPAL.

RESPONDENTS' EXHIBITS :- NIL.

True copy

P.A to Judge

ANIL K.NARENDRAN, J.

W.P.(C)No.27735 of 2015

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Dated this the 15th day of September, 2015

JUDGMENT

The petitioner, who availed a loan facility from the 2nd respondent Bank, has approached this Court in this writ petition aggrieved by the recovery proceedings initiated pursuant to Ext.P2 and seeking an order directing the respondent Bank to receive the amount outstanding in 20 equal monthly instalments.

2. Going by the averments in the writ petition the petitioner availed a loan from the 2nd respondent Bank in the year 2010. When he defaulted payment of monthly instalments coercive steps were initiated by issuing Ext.P1 notice, which was followed by Ext.P2 order obtained by the Bank from the court of the Chief Judicial Magistrate concerned. The petitioner would contend that, due to financial constraints he could not remit the monthly instalments in time. It was in such circumstances the petitioner has approached this Court in this writ petition seeking various reliefs.

3. The learned Standing Counsel for the Bank on instructions would submit that, the petitioner availed a consumption

loan in the year 2010 which he has to repay within a period of 100 months. When he defaulted re-payment, coercive steps were initiated and the total amount outstanding comes to ₹13,15,014/- out of which the overdue comes to ₹9,31,634/-. The learned Standing Counsel would also point out that the aforesaid amount is after taking into account the payment of ₹1,40,000/- made by the petitioner on 24.2.2015.

4. I heard the arguments of the learned counsel for the petitioner and also the learned Standing Counsel for the respondent Bank.

5. The petitioner is seeking indulgence of this Court to pay the overdue in respect of loan account in monthly instalments due to the financial constraints faced by him.

Considering the facts and circumstances of the case this writ petition is disposed of with the following directions:-

1. The petitioner shall clear the overdues in respect of the loan availed by him from the 2nd respondent Bank amounting to ₹9,31,634/- in 10 equal monthly instalments commencing from **1.10.2015**. In addition to this the petitioner shall continue to pay the regular monthly instalments in time, without any default.

2. If the petitioner is remitting overdues in 10 equal monthly instalments as directed above and continue to pay the regular instalments in time, all further proceedings pursuant to Ext.P2 shall be kept in abeyance till 3.8.2016 so as to enable the petitioner to clear the said amount.
3. In case of any default committed by the petitioner either in remitting the monthly instalments towards overdues or the regular monthly instalments, it would be open to the respondent Bank to proceed with Ext.P2 notice without further notice to the petitioner.

Sd/-
ANIL K.NARENDRAN, JUDGE

skj