IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY,THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WP(C).No. 27945 of 2015 (P)

PETITIONER : -

NITHEESH. C.U, S/O. UNNIKRISHNAN,
CHAMBILPARAMBIL HOUSE,
P.O.EDAVILINGU, KODUNGALLUR.

BY ADVS.SRI.K.S.RAJESH
SRI.M.SHAJU PURUSHOTHAMAN

RESPONDENTS : -

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1. THE REGISTRAR CO-OPERATIVE SOCIETITES,
THIRUVANANTHAPURAM - 695 001.

2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
THRISSUR - 680 004.

3. KODUNGALLUR TALUK PRIMARY CO-OPERATIVE AGRICULTRUAL AND RURAL DEVELOPEMENT BANK LTD NO. R. 1353,
KODUNGALLUR, REPRESNETED BY IT'S SECRETARY - 680 664.

4. THE SALE OFFICER,
KODUNGALLUR TALUK PRIMARY CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD NO. R. 1353,
KODUNGALLUR, PIN - 680 664.

R3 BY ADV.SRI.V.G.ARUN
R3 BY ADV.SRI.T.R.HARIKUMAR
BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 27945 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF THE DEMAND NOTICE DATED 08.9.2015 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER WITH IT'S ENGLISH TRANSLATION.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 27945 of 2015

Dated this the 14th day of October, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondent Bank, as well as the learned Government Pleader, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioner availed himself of a loan from the third respondent Bank in the year 2011 by creating equitable mortgage of the immovable property owned by him. He has committed default in the course of time.

3. Ventilating his grievance that he could not repay the loan amount owing to stringent financial constraints faced by him, and that in the meanwhile the respondent Bank has been initiating recovery proceedings against him, the petitioner has filed the present writ petition.

4. The learned counsel for the petitioner has submitted that at no point of time has the petitioner got any intention of evading the loan. On the other hand, the petitioner, according to the learned counsel, is willing to pay the entire amount due, in instalments. He has fairly submitted that though the petitioner

could not, as a matter of right, insist on his paying the loan amount in monthly instalments, he has sought the intervention of this Court purely owing to his financial constraints.

5. The learned counsel for the respondent Bank, having initially opposed the claims and contentions of the petitioner, has eventually consented, based on instructions, that if the petitioner undertakes to pay the entire amount outstanding in the loan account in twelve equal monthly instalments, the Bank is willing to accept the same.

6. In the facts and circumstances, as has been mutually agreed on by both the parties, this Court disposes of the writ petition directing the petitioner to repay the outstanding loan amount to the respondent Bank in twelve equal monthly instalments beginning from November 2015.

Needless to observe, if any default is committed by the petitioner in repaying the loan amount as per the repayment schedule mutually agreed on, the respondent Bank is at liberty to proceed further without reference to this judgment. No order as to costs.

DAMA SESHADRI NAIDU
JUDGE

DMR/-