IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

WP(C).No. 28011 of 2015 (B)

PETITIONER(S):

MR.SANKARAN P
RESIDING AT KANNANSANTHI, VALIYAMELATHIL MYLOM
KOTTATHALA, VENDAAR.P.O., KOTTARAKARA TALUK
KOLLAM DISTRICT.

BY ADVS.SRI.S.SREEKUMAR (KOLLAM)
SMT.SHEENAMOL VARGHESE

RESPONDENT(S):
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1. THE CHIEF MANAGER
NRI BRANCH, UNION BANK OF INDIA
THIRUVANANTHAPURAM-695 001.

2. THE BRANCH MANAGER
UNION BANK OF INDIA, PULAMON.P.O.
KOTTARAKARA-691 531.

BY SRI.A.S.P.KURUP, SC, UBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 28011 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- A TRUE COPY OF THE ADVOCATE COMMISSIONER'S NOTICE DATED 07.08.2015 IN C.M.P.NO.4316/2015 OF THE HON'BLE CHIEF JUDICIAL MAGISTRATE COURT, KOLLAM.

P2- A TRUE COPY OF THE REPRESENTATION DATED 28.08.2015 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.28011 of 2015

....

Dated this the 16th day of September, 2015

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

The petitioner, who had availed a loan 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.P1 is the notice issued issued by the Advocate Commissioner. In the writ petition, the petitioner impugns 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 overdue amount in respect of the loan availed by the petitioner is stated to be Rs.2,10,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.2,10,000/- together with accrued interest in five equal and successive monthly instalments commencing from 15.10.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner by the 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 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

The figure "Rs.2,10,000/- occurring in lines 3 and 5 of direction No.(i) at page 2 of the judgment dated 16/09/2015 in W.P.(C). No.28011/2015 is corrected as "₹ 1,00,000/-" as per order dated 30.10.2015 in I.A.14515/2015 in W.P.(C).No.28011/2015.

Sd/-
Registrar (Judicial)