IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WP(C).No. 28137 of 2015 (N)

PETITIONER(S):

1. ABDULKHADER K., AGED 53 YEARS,
   S/O.KUNHIMOIDEENKUTTY, KAVVAYIKARAN HOUSE, PALATHARA,
   EDACHAKI P.O., HOSDURG TALUK, KASARAGOD DISTRICT.

2. P.P.ASIYA, AGED 46 YEARS,
   W/O.HASSAINARA, POROTT PATTILATH, PADNE P.O.,
   HOSDURG TALUK, KASARAGOD DISTRICT.

3. HUSSAINAR K., AGED 62 YEARS,
   S/O.KUNHIMOIDEENKUTTY, KAVVAYIKARAN HOUSE,
   NEAR PADNE PANCHAYATH, PADNE P.O., HOSDURG TALUK,
   KASARAGOD DISTRICT.

   BY ADV. SRI.A.ARUNKUMAR

RESPONDENT(S):

1. THE AUTHORISED OFFICER,
   KERALA GRAMIN BANK, REGIONAL OFFICE,
   KASARAGOD-671 121.

2. THE MANAGER,
   KERALA GRAMIN BANK, UNDINUR BRANCH, UDINUR P.O.,
   KASARAGOD, PIN-671 310.

   BY ADVS. SRI.DEVAN RAMACHANDRAN
   SRI.K.M.ANEESH
   SRI.ADARSH KUMAR
   SRI.DILEEP CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 28137 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : A TRUE COPY OF THE DEMAND NOTICE DT 14-7-2015.

P2 : A TRUE COPY OF THE RECEIPT SHOWING THE PAYMENT DT 17-7-2015.

P2(A) : A TRUE COPY OF THE RECEIPT SHOWING THE PAYMENT DT 10-8-2015.

P3 : A TRUE COPY OF THE NOTICE DT 3-8-2015 ISSUED BY THE 1ST RESPONDENT UNDER SARFAESI ACT.

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C).No.28137 of 2015

...

Dated this the 4th day of November, 2015

J U D G M E N T

The petitioner who had availed of 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.P3 is the S.13(2) notice issued under the SARFAESI Act. 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 for the petitioner and 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 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 as on 22.09.2015, is stated to be Rs.6,08,390/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.6,08,390/- together with accrued interest from 22.09.2015, in 12 equal and successive monthly instalments commencing from 30.11.2015, the recovery steps initiated against the petitioner by the respondent bank shall be kept in abeyance.

(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/04.11.15