IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

WP(C).No. 28350 of 2015 (P)

PETITIONER(S):

NARAYANAPILLAI, AGED 57 YEARS
S/O.RAMAN PILLAI, CHARUVILA PUTHEN VEEDU
KALAYAPURAM VILLAGE, PERUMKULAM P.O, KOLLAM DISTRICT.

BY ADV. SRI.SYAM J SAM

RESPONDENT(S):

AUTHORISED OFFICER
CO-OPERATIVE URBAN BANK LTD, KOTTARAKKARA
KOLLAM REPRESENTED BY THE CHIEF MANAGER 691 506.

R1,R 2 BY ADV. SMT.DEEPA.V, SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 28350 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 1.09.2015

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.28350 of 2015

....

Dated this the 18th day of September, 2015

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

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.P1 is the notice 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.1,80,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,80,000/- together with accrued interest in four 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns