IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

WP(C).No. 28433 of 2015 (D)

PETITIONER(S):

ASHOKAN C.P., AGED 45 YEARS,
S/O KANNAN, CHEMBILORA PARAYULLA PARAMBATH HOUSE,
CHEEKUNNUMMEL P.O., CHEEKUNNUMMEL,
VADAKARA TALUK, KOZHIKODE DISTRICT-673 507.

BY ADVS.SRI.JOHN JOSEPH (ROY),
SMT.MEDONA LOPEZ.

RESPONDENT(S):

KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.F-1635,
REPRESENTED BY THE AUTHORIZED OFFICER, KALLAI ROAD,
CHALAPURAM P.O., KOZHIKODE-673 002.

BY ADV. SRI.R.SUDHISH, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 28433 of 2015 (D)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1: TRUE COPY OF THE NOTICE PUBLISHED IN MALAYALA MANORAMA DAILY DATED 01.01.2014 UNDER S.13(4).

EXHIBIT P2: TRUE COPY OF THE NOTICE DATED 27.05.2014 FROM THE RUBBER BOARD REGIONAL OFFICE KOZHIKODE, TO THE PETITIONER.

EXHIBIT P3: TRUE COPY OF THE CERTIFICATE REGARDING THE NATURE OF THE PROPERTY OF THE PETITIONER FROM THE AGRICULTURAL OFFICER, KAYAKODY DATED 11.08.2015.

EXHIBIT P4: TRUE COPY OF THE NOTICE DATED 24.07.2015 ISSUED BY THE ADVOCATE COMMISSIONER APPOINTED BY THE CJM KOZHIKODE TO TAKE POSSESSION OF THE SECURED ASSETS OF THE PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.28433 of 2015

....

Dated this the 7th day of October, 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 Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts. Ext.P4 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.6,22,344/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.6,22,344/- together with accrued interest in ten equal and successive monthly instalments commencing from 01.11.2015, 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