IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

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

WP(C).No. 28651 of 2015 (F)

PETITIONER(S):

ROY JAYAPAL, AGED 41 YEARS,
S/O.JAYAPAL ENOSE, JHARABI CHAWL R NO.15,
TEMBI PADA GAMDEBI, BHANDUP (WEST), MUMBAI-78,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER,
P.M.CHERIAN, AGED 58 YEARS, S/O.MATHAI,
KARIYILATHADAM HOUSE, ERUMBAYAN KARA, VELLOOR VILLAGE,
VAIKKOM TALUK.

BY ADVS.SRI.GEORGE SEBASTIAN
SRI.R.SYLESHWAREN NAIR

RESPONDENT(S):
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1. THE CHIEF MANAGER,
(AUTHORIZED OFFICER), STATE BANK OF INDIA,
REGIONAL BUSINESS OFFICE, K.K.ROAD, KOTTAYAM-686 001.

2. THE STATE BANK OF INDIA,
THALAYOLAPPARAMBU BRANCH, KOTTAYAM DISTRICT,
REPRESENTED BY ITS MANAGER - 686 001.

BY ADV. SRI.R.S.KALKURA, SC, SBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 28651 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: A TRUE COPY OF THE NOTICE DATED 2.7.2015 ISSUED BY THE 1ST RESPONDENT UNDER SECTION 13(2) OF THE SARFAESI ACT.

EXHIBIT-P2: A TRUE COPY OF THE NOTICE DATED 11.9.2015 ISSUED BY THE 1ST RESPONDENT.

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.28651 OF 2015 (F)

Dated this the 14th day of October, 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 to the petitioner under Section 13(2) of 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 appearing for the petitioner as also the learned Standing counsel appearing 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 installments. 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.1,55,388/- together with accrued interest from 6.10.2015. Accordingly, if the petitioner pays the said amount of Rs.1,55,388/- together with accrued interest from 6.10.2015 in six equal and successive monthly installments commencing from 2.11.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.
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> (ii) It is further made clear that if the petitioner commits a default in respect of any of the installments, 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

prp/14/10/15