IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WP(C).No. 28718 of 2015 (L)

PETITIONER(S):

DEEPESH A.D., AGED 32 YEARS,
S/O.DAMODARAN, ANDURUTHIL HOUSE,
CHENTHRAPPINNY P.O., CHENTHRAPPINNY VILLAGE,
VIA. THRISSUR, PIN-680 687.

BY ADVS.SRI.LAL K.JOSEPH,
SRI.A.A.ZIYAD RAHMAN,
SRI.V.S.SHIRAZ BAVA,
SRI.K.H.ANSAR.

RESPONDENT(S):
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1. INDUS IND BANK LTD.,
   RAMABAVAN NO.XXVI NEAR, PARUTHELIPALAM ROAD,
   TOLL JUNCTION, EDAPPALLY, KOCHI-682 024,
   REPRESENTED BY ITS AUTHORISED OFFICER.

2. JAYARAJ P.S., AGED 36 YEARS,
   AUTHORIZED OFFICER, INDUS IND BANK LTD.,
   RAMABAVAN NO.XXVI NEAR, PARUTHELIPALAM ROAD,
   TOLL JUNCTION, EDAPPALLY, KOCHI-682 024.

R1 BY ADVS. SRI.G.HARIHARAN,
SRI.PRAVEEN.H.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 28718 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	COPY OF THE ACCOUNT STATEMENT DATED 16/09/2015 EVIDENCING THE REPAYMENT.
EXT.P2	COPY OF THE ORDER IN CRL.MP.3990/2015 OF THE CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR.
EXT.P3	COPY OF THE PRE SALE NOTICE DATED 17/09/2015 ISSUED BY THE RESPONDENTS.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 28718 of 2015
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Dated this the 1st day of October, 2015

JUDGMENT

The petitioner, who had availed a vehicle 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 pre-sale notice issued to the petitioner 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 appearing on behalf of the petitioner as also the learned Standing Counsel appearing on behalf of the respondents.

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, is stated to be Rs.40,200/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.40,200/- together with accrued interest on or before 20.10.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against him 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 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.

(iii) It is also made clear that, as and when the petitioner pays the amount of Rs.40,200/- as aforesaid, the respondent bank shall restore possession of the vehicle to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das