IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

WP(C).No. 28853 of 2015 (F)

PETITIONER(S):

PRASANTHAN. P.D., S/O.DIVAKARAN,
AGED 60 YEARS, ILLIKKAL HOUSE,
MARADU P.O., KOCHI-682 304,
ERNAKULAM DISTRICT.

BY ADVS.SRI.RAAJESH S.SUBRAHMANIAN,
SRI.V.R.RAJESH.

RESPONDENT(S):
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1. BANK OF INDIA,
   SHANMUGHAM ROAD, KOCHI-682 031,
   REPRESENTED BY ITS CHIEF MANAGER.

2. EDISON ANTONY, KUTTANCHERRY HOUSE,
   ERUMATHALA P.O., ALUVA-683 112,
   SUB REGIONAL TRANSPORT OFFICE,
   ALUVA-683 501.

R1 BY ADV. SRI.M.DINESH, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 28853 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	COPY OF THE SALE DEED NO.6318/94 OF SRO, MARADU DATED 14/12/1994.
EXT.P2	COPY OF THE DEED NO.2446/06 OF SRO, MARADU DATED 19/05/2006.
EXT.P3	COPY OF THE PLAINT IN O.S. NO.861/2015 INSTITUTED BEFORE THE MUNSIFF COURT, ERNAKULAM DATED 09/07/2015.
EXT.P4	COPY OF THE NOTICE DATED 15/06/2015 ISSUED BY THE 1ST RESPONDENT.
EXT.P5	COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 03/09/2015.
EXT.P6	COPY OF THE IMPLEADING PETITION DATED 14/09/2015 FILED BEFORE THE CJM, ERNAKULAM IN CMP. NO.3166/2015.
EXT.P7	COPY OF THE APPLICATION SEEKING REGULARIZATION DATED 15/09/2015 MADE BEFORE THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.28853 of 2015

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Dated this the 28th day of September, 2015

J U D G M E N T

The petitioner, who is in possession of the property which was offered as security for a loan advanced to the 2nd respondent is aggrieved by the steps taken by the respondent bank against the said property for realisation of amounts defaulted by the 2nd respondent towards the loan account. Ext.P5 is the notice issued by the Advocate Commissioner to the 2nd respondent in respect of the property where the petitioner is currently residing. 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 2nd respondent is stated to be Rs.5,00,000/- together with accrued interest as of today. Accordingly, if the petitioner pays the aforesaid amount of Rs.5,00,000/- together with accrued interest in six 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 secured asset where the petitioner is residing 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 from the stage at which they presently stand.

(iii) The respondent bank will be free to issue to the petitioner, receipts in the name of the 2nd respondent, as and when the petitioner effects payments of the instalment amounts directed in this judgment. The respondent bank shall also furnish the petitioner with an up-to-date statement of accounts so as to enable the petitioner to make timely payments of the instalments due to the respondent bank on behalf of the 2nd respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns