IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

WP(C).No. 28915 of 2015 (L)

PETITIONER(S) :

GIRISH.G, AGED 32 YEARS,
S/O.GOPI, VILANILAM, JANAKIYANAGAR 224,
PATTATHANAM P.O, KOLLAM, KERALA- 691 021.

BY ADV. SMT.O.H.NAZEEBA

RESPONDENT(S) :

THE AUTHORIZED OFFICER,
KOLLAM DISTRICT CO-OPERATIVE BANK (LTD),
KOLLAM- 691 001.

BY ADV. SRI.T.R.HARIKUMAR, S.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 28915 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: **A TRUE COPY OF THE RELEVANT PAGE OF THE PASS BOOK ISSUED TO THE PETITIONER WITH RESPECT TO LOAN NO.CL 3516 IN PROOF OF THE REMITTANCES.**

EXHIBIT P2: **TRUE COPY OF THE NOTICE NO.R.E.C 6/2015-16 DATED 15/09/2015 ISSUED BY THE RESPONDENT INTIMATING TAKING POSSESSION OF THE PROPERTY.**

RESPONDENT(S)' EXHIBITS :
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.28915 of 2015

....

Dated this the 6th 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.P2 is the notice issued under Section 13 (4) 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 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.4,54,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.4,54,000/- together with accrued interest in ten equal and successive monthly instalments commencing from 20.10.2015, and continues to keep up the regular instalments as per the original loan schedule, further proceedings for recovery 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