IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

WP(C).NO. 28922 OF 2015 (M)

PETITIONER(S):

NISHAD A.K. AGED 30 YEARS
S/O.A.B.KUNJUMON
ADAPATTU HOUSE, ADIVADU, PALLARIMANGALAM P.O
KOTHAMANGALAM ERNAKULAM DISTRICT-686671

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

RESPONDENT(S):

HDFC FINANCE CORPORATION LIMITED
REPRESENTED BY THE AUTHORISED OFFICER, HDFC HOUSE,
RAVIPURAM JUNCTION, M.G.ROAD, KOCHI-682016

BY SMT.S.AMBILY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED TO THE PETITIONER DATED 03.02.2014

EXT.P2: TRUE COPY OF THE LAWYER NOTICE DATED 16.03.2015 ISSUED TO THE PETITIONER AND HIS MOTHER

EXT.P3: TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE RESPONDENT SHOWING THE ENTIRE OUTSTANDING AMOUNT

EXT.P4: TRUE COPY OF THE SALARY CERTIFICATE DATED 24.04.2015 OF THE PETITIONER SHOWING THE SALARY OF APRIL, 2015

EXT.P5: TRUE COPY OF THE NOTICE DATED 16.09.2015 OF THE ADVOCATE COMMISSIONER FOR POSSESSION

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.28922 of 2015

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Dated this the 23rd day of September, 2015

J U D G M E N T

The petitioner, who had availed of a loan from the respondent company, defaulted in repayment of the same. Consequently, the respondent company 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.P5 is the notice issued by the Advocate Commissioner. In the writ petition, the petitioner impugns the steps initiated by the respondent company 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 company.

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 company 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.1,77,172/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,77,172/- together with accrued interest in 12 equal and successive monthly instalments commencing from 31.10.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner by the respondent 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 will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns