IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 29007 of 2015 (A)

PETITIONER(S):

SURESH V.T., AGED 41 YEARS,
S/O.LATE THEVAN, VATTAPPANATHU HOUSE, PAMPRA,
VETTICKAL P.O, MULAMTHURUTHY,
ERNAKULAM DISTRICT 682 314.

BY ADV. SRI.T.KURIAKOSE PETER

RESPONDENT(S):
----

1. ERNAKULAM DISTRICT CO-OPERATIVE BANK LTD,
   MULAMTHURUTHY BRANCH,
   ERNAKULAM DISTRICT
   REPRESENTED BY ITS BRANCH MANAGER.

2. AUTHORISED OFFICER (DEPUTY GENERAL MANAGER),
   ERNAKULAM DISTRICT CO-OPERATIVE BANK LTD, KAKKANAD,
   KOCHI 682 030.

BY SMT.I.SHEELA DEVI, SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 29007 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE NOTICE DT 01-08-2014 ISSUED BY 1ST RESPONDENT BANK

EXHIBIT P2 TRUE COPY OF THE RECEIPT DT.4/8/14 ISSUED BY R1

EXHIBIT P3 TRUE COPY OF THE NOTICE DT 20-05-2015 ISSUED BY 1ST RESPONDENT IN TERMS OF S.13(2) OF THE SARFAESI ACT

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

..

W.P.(C).No.29007 of 2015

..

Dated this the 16th 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 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 S.13(2) notice issued 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 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.2,59,738/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.2,59,738/- together with accrued interest in eight equal and successive monthly instalments commencing from 02.11.2015, and continues to keep up the regular instalments as per the original loan schedule, further proceedings against the petitioner 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/16.10.15