IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

WP(C).No. 29207 of 2015 (A)
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PETITIONER(S):

HAMZA ALIYATHODY, AGED 50 YEARS,
S/O. ABDUL RAHIMAN, DHOLLY VILLA, VELLARANGAL,
VAYAPARAPADY, MANJERI, MALAPPURAM DISTRICT.

BY ADV. SRI.U.K.DEVIDAS

RESPONDENT(S):

THE GENERAL MANAGER,
MANJERI CO-OPERATIVE URBAN BANK LIMITED NO. 1726,
COURT ROAD, MANJERI, MALAPPURAM DISTRICT.

BY ADV. SRI.K.VIDYASAGAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 29207 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1- TRUE COPY OF THE NOTICE DATED 25/08/2015 ISSUED BY THE RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.29207 OF 2015 (A)

Dated this the 13th day of October, 2015

<u>J U D G M E N T</u>

The petitioner, who had availed of a cash credit facility 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.P1 is the notice proposing recovery proceedings 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 for the petitioner as also the learned Standing counsel appearing 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 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 cash credit facility of Rs.50,00,000/- availed by the petitioner, is stated to be Rs.15,61,801/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.15,61,801/- together with accrued interest in six equal and successive monthly installments commencing from 02.11.2015, and complies with the formalities stipulated by the respondent bank for continuation of the overdraft facility, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is further 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/13/10/15