IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WP(C).No. 29255 of 2015 (F)

PETITIONER(S):

MUHAMMED ZAKIR.T.K., AGED 45 YEARS,
S/O. MUHAMMED T.K., SHANI MANSION, KOTTARAKKAD,
P.O.KARULAI, MALAPPURAM DISTRICT - 679 332.

BY ADV. SRI.U.K.DEVIDAS

RESPONDENT(S):

THE AUTHORIZED OFFICER,
THE SOUTH INDIAN BANK LTD, REGIONAL OFFICE,
HAPPY TOWERS, MANANCHIRA P.O.,
KOZHIKODE DISTRICT - 673 001.

BY SRI.GEORGE VARGHESE,SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 29255 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF THE AGREEMENT DT. 24.8.2012.

P2 - TRUE COPY OF THE LETTER DT. 22.5.2014.

P3 - TRUE COPY OF THE LETTER DT. 21.8.2014.

P4 - TRUE COPY OF THE NOTICE DT. 18.8.2015 ISSUED BY THE RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 29255 of 2015
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Dated this the 1st day of October, 2015

JUDGMENT

The petitioner, who had availed of an overdraft facility upto the limit of Rs.2,50,00,000/-, a term loan of Rs.10,00,000/- and two housing loans of Rs.50,00,000/- and 25,00,000/- each, 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 loans amounts. Ext.P4 is the notice issued to the petitioner 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 appearing on behalf of the respondents.

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 loan as of today, is stated to be Rs.66,06,00,000/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.66.06 lakhs together with accrued interest in seven equal and successive monthly installments commencing from 01.11.2015, and continues to keep up the regular installment payments as per the original loan schedules of the term loan and the housing loans, then the recovery steps initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is 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.

(iii) I make it clear that on receipt of the payments from the petitioner, the respondent bank can credit the amounts to the respective accounts in accordance with the dues position in each of the accounts. The petitioner shall also approach the respondent bank and comply with the procedural formalities required for maintaining the overdraft facility with the respondent bank, within a period of two weeks from today.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das