IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WP(C).No. 29478 of 2015 (H)

PETITIONER:

ABRAHAM SEBASTIAN, AGED 65 YEARS,
S/O.DEVASIA, PULKKUNNEL HOUSE, UPPUTHODU P.O.,
IDUKKI.

BY ADVS.SRI.JAISON JOSEPH
SRI.P.S.APPU

RESPONDENTS:
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1. KERALA STATE CO-OPERATIVE BANK LTD.,
IDUKKI BRANCH, REPRESENTED BY ITS BRANCH MANAGER - 685 001.

2. DEPUTY REGISTRAR/SPECIAL ARBITRATOR CUM SPECIAL SALE OFFICER, KERALA STATE CO-OPERATIVE BANK, REGIONAL OFFICE, ERNAKULAM - 682 030.

R BY SRI.GEORGE POONTHOTTAM, SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1. COPY OF THE NOTICE DATED 16.9.15 ISSUED BY RESPONDENT NO.1 U/S. 76 AND RULE 76 OF CO-OPERATIVE SOCIETIES ACT.

EXHIBIT P2. TRUE COPY OF TRANSLATED COPY OF EXHIBIT P1.

RESPONDENTS' EXHIBITS: NIL

/True Copy/

P.A to Judge.

rv

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 29478 of 2015 (H)

Dated this the 14th day of October, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondent Bank, apart from perusing the record.

2. The petitioner, a borrower from the first respondent Bank, assailed Ext.P1 notice directing payment of ₹ 1,56,000/- .

3. The learned counsel for the petitioner has submitted that the petitioner, despite his best efforts, could not repay the loan amount owing to stringent financial conditions faced by him. Accordingly, the petitioner has sought the indulgence of this Court for a direction to the respondent Bank to receive from the petitioner the outstanding loan amount in instalments.

4. Before appreciating the submissions of the learned counsel for the first respondent Bank, I may have to observe that expansive as the jurisdiction of Article 226 of the Constitution of India is, I am afraid, it does not go to the extent of interdicting the contractual terms, especially in a financial transaction involving public money, so as to compel the respondent Bank to agree for instalments.

5. Be that as it may, evidently being fully aware of the difficulties involved in realising the loan amounts through the process of invidious sale of the property, the learned counsel for the first respondent, to his credit, evidently on instructions, has submitted that the respondent Bank is willing to collect the outstanding loan amount in ten monthly instalments.

In the facts and circumstances, essentially based on the concession made by the learned counsel for the respondent Bank, this Court disposes of the writ petition with a direction to the petitioner to pay the entire outstanding loan amount in ten equal monthly instalments starting from 02.11.2015. Needless to observe that, if the petitioner fails to deposit the said amount within the stipulated time, the respondent Bank is at liberty to proceed further without recourse to this Court.

sd/- DAMA SESHADRI NAIDU, JUDGE.

rv