IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

WP(C).No. 29569 of 2015 (U)

PETITIONER(S) :

HARISETH NASEER, AGED 49 YEARS,
W/O.NASEER.E, PYNUMOOTTIL THEKKETHIL,
ATHIKATTUKULANGARA P.O, NOORANAD,
ALAPPUZHA DISTRICT- 690 504.

BY ADVS.SRI.S.SHANAVAS KHAN
SMT.S.INDU

RESPONDENT(S):
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1. THE HDFC BANK LIMITED,
   SL PLAZA, PALARIVATTOM, KOCHI- 682 025,
   REPRESENTED BY IT AUTHORISED OFFICER.

2. THE MANAGER,
   THE HDFC BANK LIMITED, FIRST FLOOR, THOTTUKAL BUILDING,
   EAST OF CONVENT SQUARE, ALLEPPEY- 690 504.

BY ADV. SRI.T.RAJESH, S.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 29569 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS :

P1: **TRUE COPY OF THE NOTICE DATED 12.06.2015 ISSUED UNDER SECTION 13(2) OF THE ACT BY THE FIRST RESPONDENT.**

P2: **TRUE COPY OF THE REPAYMENT RECEIPTS EVIDENCING THE PAYMENTS MADE BY THE PETITIONER.**

P3: **TRUE COPY OF THE STATEMENT OF ACCOUNTS FOR THE PERIOD FROM 20.03.2013 TO 05.05.2015.**

RESPONDENT(S)' EXHIBITS :
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).No.29569 of 2015

Dated this the 7th day of October, 2015

J U D G M E N T

The petitioners daughter, 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 Reconstruction 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 issued under Section 13(2) 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 for the respondent bank. The learned Standing counsel opposes the prayer for regularisation.

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.2,93,886/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.2,93,886/- together with accrued interest in five equal and successive monthly instalments commencing from 01.11.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner by the respondent bank 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