IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

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

WP(C).No. 29929 of 2015 (M)

PETITIONER :

JOJO JOSEPH,S/O.JOSEPH, AGED 40 YEARS,
ARIMATTATHIL HOUSE, THADIYAMPAD.P.O.,
VASHATHOPPU, IDUKKI DISTRICT.

BY ADVS.SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA

RESPONDENT(S):
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1. THE FEDERAL BANK LIMITED,
REPRESENTED BY ITS AUTHORIZED OFFICER,
IDUKKI BRANCH, IDUKKI COLONY.P.O.,
CHERUTHONI, IDUKKI-695 602

2. THE AUTHORIZED OFFICER, THE FEDERAL BANK LIMITED,
IDUKKI BRANCH, IDUKKI COLONY.P.O., CHERUTHONI,
IDUKKI-695 602

3. THE MANAGER, THE FEDERAL BANK LIMITED,
IDUKKI BRANCH, IDUKKI COLONY.P.O., CHERUTHONI,
IDUKKI-695 602

BY ADVS. SRI.A.ANTONY
SMT.LEELAMMA ANTONY

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

sts

WP(C).NO.29929/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE NOTICE ISSUED UNDER SECTION 13(2) OF THE SARFAESI ACT DATED 09/7/2014

P2 COPY OF THE NOTICE DATED 19/11/2014 UNDER SECTION 13(2) OF THE SARFAESI ACT.

P3 COPY OF THE LETTER DATED 13/7/2015

P4 COPY OF THE ORDER DATED 17/6/2015 IN C.M.P.NO.2455/2015 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA

P5 COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 6/7/2015.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.29929 of 2015

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Dated this the 14th day of October, 2015

J U D G M E N T

The petitioner, who had availed of two loans namely, a housing loan and 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.P4 is the order of the Chief Judicial Magistrate. Ext.P5 is the notice issued by the Advocate Commissioner. 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 housing loan is stated to be Rs.1,93,936/-. Similarly, the total outstanding amount in respect of the cash credit facility is Rs.3,20,171/-. Accordingly, if the petitioner pays the total amount of Rs.5,14,107/- together with accrued interest in eight equal successive monthly instalments commencing from 01.11.2015, and continues to keep up the regular instalments as per the original loan schedule in the housing loan, 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/14.10.15