IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No. 30039 of 2015 (D)
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PETITIONER(S) :

BEENA SOMAN, AGED 46 YEARS,
W/O.K.K.SOMAN, M/S.SOPANAM POWDER COATINGS, 20B,
DEVELOPMENT PLOT, PERINGANDOOR POST, ATHANI-680 581.

BY ADVS.SRI.PRAVEEN K. JOY
SRI.T.A.JOY

RESPONDENT(S) :
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1. **THE AUTHORIZED OFFICER, BANK OF INDIA,**
   ZONAL OFFICE, KERALA ZONE, KALOOR TOWERS,
   KALOOR, KADAVANTHRA ROAD, COCHIN-682 017.

2. **BRANCH MANAGER,**
   BANK OF INDIA, TRICHUR BRANCH, POST BOX 64,
   M.G.ROAD, THRISSUR-680 001.

BY ADV. SRI.DEVAN RAMACHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 30039 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: THE TRUE PHOTOCOPY OF 13(2) NOTICE.

EXHIBIT P2: THE TRUE PHOTOCOPY OF THE APPLICATION FOR REGULARIZATION BEFORE THE RESPONDENT.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 30039 of 2015
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Dated this the 30th day of October, 2015

JUDGMENT

The petitioner, who had availed two term loans and 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 issued to the petitioner 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 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 amount outstanding from the petitioner to the respondent bank, in respect of one of the term loans and the cash credit facility, is stated to be Rs.24,04,000/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.24,04,000/- together with accrued interest in twelve equal and successive monthly installments commencing from 15.11.2015, then the recovery steps initiated against him for the said amount, shall be kept in abeyance.

(ii) The total overdue amount, in respect of the second term loan, as of today is stated to be Rs.2,65,000/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.2,65,000/- together with accrued interest in three equal and successive monthly installments commencing from 30.11.2015, and continues to keep up the regular installment payments as per the original loan schedule of the said term loan, then the recovery steps initiated against him by the respondent bank shall be kept in abeyance.

(iii) 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /30.10.15