IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 30079 of 2015 (H)

PETITIONER:

JACOB, S/O.POULOSE,
PORATHURKITTAN HOUSE,
PANDIKKAVU, VIYOOR, TRISSUR.

BY ADV. SMT.S.MUMTAZ

RESPONDENT:

TRISSUR DISTRICT CO-OPERATIVE BANK LTD.,
REP. BY THE AUTHORISED OFFICER,
HO SAHAKKARANA SATHABDHI MANDIRAM,
KOVILAKATHUMPADAM, THIRUVAMBADY.P.O.,
TRISSUR - 680 053.

BY ADV. SRI.C.A.MAJEED, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 30079 of 2015 (H)

APPENDIX

PETITIONERS' EXHIBITS:

EXT. P1 : TRUE COPY OF NOTICE UNDER SEC.13(2).

EXT. P2 : TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER TO THE BANK THROUGH THE LAWYER.

EXT.P3(A) &(B): TRUE COPYOF THE RECEIPTS OF PAYMENT.

EXT. P4 : TRUE COPY OF NOTICE ISSUED BY THE ADVOCATE COMMISSIONER.

EXT. P5 : TRUE COPY OF THE REQUEST LETTER DATED 29.9.2015 GIVEN BY THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.30079 of 2015

....

Dated this the 16th day of October, 2015

J U D G M E N T

The petitioner, 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 Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts. 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 loan availed by the petitioner is stated to be Rs.11,80,940/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.11,80,940/- together with accrued interest in 10 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/17.10.15