IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

WP(C).No. 30152 of 2015 (T)

PETITIONER :

MAMMOOTY KAMBA,
WHITE ROSE, NEAR PAYYANAKKAL KAV,
KALLAI, CALICUT.

BY ADVS.SRI.K.S.RAJESH
SRI.M.SHAJU PURUSHOTHAMAN

RESPONDENT :

SYNDICATE BANK,
PANNIANKARA BRANCH, PANNIYANKARA,
KOZHIKODE, PIN-673 003
REPRESENTED BY IT'S BRANCH MANAGER,
REPRESENTED BY IT'S AUTHORISED OFFICER.

BY SRI.R.S. KALKURA, SC, SYNDICATE BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 30152 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : **TRUE COPY OF THE NOTICE DT 2-8-2013 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS: **NIL**
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/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.30152 of 2015

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Dated this the 20th 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. It is stated that, the respondent bank has also taken physical possession of the secured assets. 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.4,85,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.4,85,000/- together with accrued interest in three equal and successive monthly instalments commencing from 15.11.2015, and continues to keep up the regular instalments as per the original loan schedule, 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.

(iii) I make it clear that, as and when the petitioner pays the present overdue amount of Rs.4,85,000/- then the respondent bank shall restore the possession of the secured asset to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/20.10.15