IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

WP(C).No. 31107 of 2015 (K)

PETITIONER(S):

SUPRIYA, AGED 36 YEARS,
W/O. RAMESHKUMAR M.R., POURNAMI, KEELIYODE,
NEYYATTINKARA, THIRUVANANTHAPURAM.

BY ADV. SRI.THIRUMALA P.K.MANI.

RESPONDENT(S):
----------------------------+

1. THE MANAGER, AXIS BANK LTD.,
   KARAMANA BRANCH, KILLI TOWERS, KILLIPALAM,
   NEAR PRS HOSPITAL, KARAMANA P.O.,
   THIRUVANANTHAPURAM - 695 002.

2. THE AUTHORIZED OFFICER,
   AXIS BANK RETAIL ASSETS LTD.,
   KILLI TOWERS, KILLIPALAM,
   NEAR PRS HOSPITAL, KARAMANA P.O.,
   THIRUVANANTHAPURAM - 695 002.

BY ADV. SRI.PRADEESH CHACKO, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 31107 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS:-

P1- **TRUE COPY OF THE POSSESSION NOTICE DTD. 11.05.2015 ISSUED U/S. 13(4) OF THE SARFAESI ACT.**

P2 - **TRUE COPY OF THE NOTICE DTD. 10.09.2015 ISSUED BY THE ADVOCATE COMMISSIONER APPOINTED IN M.C NO. 667/2005 BY THE CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM.**

P3 - **TRUE COPY OF THE TWO RECEIPTS DTD. 08.10.2015 FOR AN AMOUNT OF RS.5000/- EACH.**

P4 - **TRUE PHOTOCOPY OF THE REPRESENTATION DTD. 11.10.201 5 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.**

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
==
W.P.(C). No. 31107 of 2015
===
Dated this the 19th day of October, 2015

JUDGMENT

The petitioner, who had availed two housing loans 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.P2 is the notice issued to the petitioner by the Advocate Commissioner under the SARFAESI Act. It is submitted that pursuant to Ext.P2 notice, the possession of the secured asset has already been taken over by the respondent bank.

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 her 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 overdue amount, in respect of the loan, is stated to be Rs.3,10,836/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.3,10,836/- together with accrued interest within two weeks from today, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against her 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 installments, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

(iii) I make it clear that on the petitioner paying the overdue amount of Rs.3,10,836/- together with accrued interest to the respondent bank, the bank shall restore possession of the secured asset to the petitioner forthwith.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /19.10.15