IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 31502 of 2014 (K)

PETITIONER(S):

INDU DILEEP KUMAR, AGED 27 YEARS,
W/O.DILEEP KUMAR, KOUKKANAPETTY ASARI HOUSE,
VADEKKEKAD P.O, CHAVAKKAD, THRISSUR.

BY ADV. SRI.K.M.ANEESH

RESPONDENT(S):
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1. GURUVAYOOR CO-OPERATIVE URBAN BANK LTD
   F.1652, GURUVAYOOR, THRISSUR DISTRICT
   REPRESENTED BY ITS DEPUTY GENERAL MANAGER.

2. K.A.ABDUL RAZAC,
   CHIEF ACCOUNTANT
   GURUVAYOOR CO-OPERATIVE URBAN BANK LTD, F.1652
   GURUVAYOOR, THRISSUR DISTRICT.

R1 BY ADV. SMT.T.P.LEKSHMI VARMA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 31502 of 2014 (K)
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APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. **COPY OF CRLMP NO.3709/14 FILED BEFORE THE CJM COURT, THRISSUR.**

EXHIBIT P2. **COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 25.09.14.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.31502 OF 2014

Dated this the 13th day of January, 2015

J U D G M E N T

The petitioner's husband, who had availed of a housing loan of Rs.2 lakhs in 2010 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 of the Advocate Commissioner pursuant to the orders passed by the Chief Judicial Magistrate, Thrissur, under the SARFAESI Act. It is stated that pursuant to Ext.P2 notice, the possession of the house was also taken 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 Sri.K.M.Aneesh, the learned counsel appearing on behalf of the petitioner.

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 amount outstanding from the petitioner to the respondent bank is stated to be Rs.3,50,000/-. Accordingly, if the petitioner remits an amount of Rs.50,000/-, the respondent bank shall restore possession of the residential house to the petitioner. Thereafter, if the petitioner remits the balance amount of Rs.3 lakhs with accrued interest in 10 equal and successive monthly instalments commencing from 15th February, 2015, further proceedings for recovery 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