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. 31724 of 2014 (M)

PETITIONER:

MOHAMMED ALI. P.,
S/O. HAMSA. P., PALLIYALIL HOUSE,
NELLAYA P.O., PALAKKAD DISTRICT-679 335.

BY ADVS.SRI.P.M.PAREETH,
SRI.MOHAMMED SHAMEEL.

RESPONDENTS:

CHIEF MANAGER AND AUTHORIZED OFFICER,
UNDER SARFAESI ACT, VIJAYA BANK, P.O. NELLAYA,
PENGATTIRI, PALAKKAD-679 335.

BY ADV. SMT.LATHA KRISHNAN, SC.

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

rs.

WP(C).No. 31724 of 2014 (M)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1- A TRUE PHOTOCOPY OF THE NOTICE UNDER SECTION 13(2) OF SARFAESI ACT DATED 04-07-2014 ISSUED BY THE RESPONDENT BANK.

EXHIBIT P2- A TRUE PHOTOCOPY OF THE NOTICE UNDER SECTION 13(4) OF SARFAESI ACT DATED 22-09-2014 ISSUED BY THE RESPONDENT BANK.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.31724 OF 2014

Dated this the 13th day of January, 2015

J U D G M E N T

The petitioner, who had availed of a housing 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. Ext.P1 is the notice under Section 13(2) of the SARFAESI Act. Ext.P2 is the notice under Section 13(4) of 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 Sri.P.M.Pareeth, the learned counsel appearing on behalf of the petitioner as also Smt.Latha Krishnan, 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 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 as of today is stated to be an amount of Rs.46,600/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.46,600/- together with accrued interest in three equal and successive monthly instalments commencing from 31.01.2015 and continues to effect payment of the regular instalments as per the original loan schedule, then the further proceedings for recovery pursuant to the notices issued 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