IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).NO. 31602 OF 2015 (A)

PETITIONER(S):

SAINUDHEEN A.A, AGED 54 YEARS
S/O.ABOOBACKER, ARAVASSERY, THALIKKULAM.P.O.
THRISSUR.

BY ADV. SRI.K.I.SAGEER

RESPONDENT(S):

CANARA BANK
KURIACHIRA SME BRANCH, FLAMON COMPLEX, 1ST FLOOR
KURIACHIRA, THRISSUR, PIN-680006
REPRESENTED BY ITS AUTHORISED OFFICER.

BY SRI.P.P.JOYI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 31602 OF 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: A TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE RESPONDENT DATED 28.09.2015.

P2: A TRUE COPY OF THE ADVERTISEMENT PUBLISHED IN MATHRUBHUMI DAILY DATED 03.10.2015.

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.31602 of 2015

....

Dated this the 11th day of November, 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. Ext.P1 is the possession notice. It is stated that the sale of the property is scheduled on 20.11.2015. 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 as on today is Rs.12,50,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.12,50,000/- together with accrued interest in two equal and successive monthly instalments commencing from 20.11.2015, 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 without the need for issuing any fresh sale notice.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/11.11.15