IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY,THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 31987 of 2015 (W)

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PETITIONER : -

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MAJEED.N.V., AGED 49 YEARS,
REGULA MANZIL, PATHAYAPURACKAL PARAMBA,
ARAKKINAR.P.O., KOZHIKODE.

BY ADV.SRI.S.K.SAJU

RESPONDENTS : -

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1. THE CALICUT CITY CO OPERATIVE BANK LTD.,
   HEAD OFFICE, CHALAPPURAM.P.O., KOZHIKODE-673 002.

2. K.RAGESH, S/O.RAJAN,
   SOPANAM, THIRUVANNUR.P.O.,
   KOZHIKODE-673 001.

3. K.MANOJKUMAR, S/O.RAJAN,
   ANJALY,PUTHIYARA.P.O.,
   KOZHIKODE-673 004.

R1 BY ADV.SRI.P.P.JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 31987 of 2015 (W)
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**APPENDIX**

PETITIONER'S EXHIBITS : -
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EXHIBIT P1 : TRUE COPY OF THE PASSBOOK ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXHIBIT P2 : TRUE COPY OF THE AWARDDATED 28-06-2012 PASSED BY THE ASST. REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), KOZHIKODE.

EXHIBIT P3 : TRUE COPY OF THE NOTICE DATED 10-09-2015 ISSUED BY THE SPECIAL SALE OFFICER OF THE 1ST RESPONDENT BANK.

EXHIBIT P3(a) : TRUE COPY OF THE MALAYALAM TRANSLATION OF EXHIBIT P3.

EXHIBIT P4 : TRUE COPY OF THE RECEIPT DATED 04-11-2014 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER EVIDENCING PAYMENT OF RS.50,000/-

EXHIBIT P5 : TRUE COPY OF THE COMPLAINT DATED 26-09-2014 SUBMITTED BY THE PETITIONER TO THE CIRCLE INSPECTOR OF POLICE KASBA,KOZHIKODE.

EXHIBIT P5(a) : TRUE COPY OF MALAYALAM TRANSLATION OF EXHIBIT P5.

RESPONDENTS' EXHIBITS : - NIL.
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// TRUE COPY //

P.A. TO JUDGE

DMR/-

**DAMA SESHADRI NAIDU, J.**

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**W.P.(c) No. 31987 of 2015**

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Dated this the 09th day of November, 2015

<u>JUDGMENT</u>

Heard the learned counsel for the petitioner and the learned counsel for the respondent Bank, apart from perusing the record.

2. Briefly stated, the petitioner availed himself of a loan from the first respondent Bank on 13.04.2011. He has committed default in the course of time.

3. Ventilating his grievance that he could not repay the loan amount owing to stringent financial constraints faced by him, and that in the meanwhile the respondent Bank has been initiating recovery proceedings against him, the petitioner has filed the present writ petition.

4. The learned counsel for the petitioner has submitted that at no point of time has the petitioner got any intention of evading the loan. On the other hand, the petitioner, according to the learned counsel, is willing to pay the entire amount due, in instalments. He has fairly submitted that though the petitioner could not, as a matter of right, insist on his paying the loan amount in monthly instalments, he has sought the intervention of this Court purely owing to his financial

constraints.

5. The learned counsel for the respondent Bank, having initially opposed the claims and contentions of the petitioner, has eventually consented, based on instructions, that if the petitioner undertakes to pay the entire amount outstanding in the loan account in ten equal monthly instalments, the Bank is willing to accept the same.

6. In the facts and circumstances, as has been mutually agreed on by both the parties, this Court disposes of the writ petition directing the petitioner to repay the outstanding loan amount to the respondent Bank in ten equal monthly instalments beginning from December 2015.

Needless to observe, if any default is committed by the petitioner in repaying the loan amount as per the repayment schedule mutually agreed on, the respondent Bank is at liberty to proceed further without reference to this judgment. No order as to costs.

**DAMA SESHADRI NAIDU**
**JUDGE**

DMR/-