IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

WP(C).No. 32040 of 2015 (D)

PETITIONER(S):

MANI.E.R., PORUNNIKAL HOUSE,
KIZHATHIRI P.O., KOTTAYAM DISTRICT.

BY ADV. SRI.GEORGEKUTTY MATHEW

RESPONDENT(S):

1. THE GENERAL MANAGER,
KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, KOTTAYAM, PIN-686501.

2. THE AUTHORISED OFFICER UNDER SARFEASI ACT,
KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, KOTTAYAM, PIN-686501.

BY ADV. SRI.SUNIL CYRIAC,SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 32040 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 TRUE COPY OF THE NOTICE DATED 23/4/14 ISSUED BY THE R2 TO THE HUSBAND OF THE PETITIONER

P2 TRUE COPY OF THE NOTICE DATED 23/4/14 ISSUED BY THE R2 TO THE BROTHER OF THE HUSBAND OF THE PETITIONER

P3 TRUE COPY OF THE NOTICE DATED 29/10/14 RECEIVED BY THE PETITIONER FROM ADVOCATE THOMAS JOSEPH KOTTAYAM.

P4 TRUE COPY OF THE RECEIPTS DATED 9/2/15 IN LOAN NO.2159

P4(A): TRUE COPY OF THE RECEIPTS DATED 9/2/15 IN LOAN NO.2364

P5: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE R1 DATED 28/7/15.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 32040 of 2015

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Dated this the 20th day of October, 2015

JUDGMENT

The petitioner, who had availed a cash credit facility as also ordinary 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.P3 is the notice issued to the petitioner by the Advocate Commissioner under the 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 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 him 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 amount outstanding from the petitioner to the respondent bank under the Cash Credit facility is stated to be Rs.7,52,000/-. Similarly the overdue amount in respect of the ordinary loan is stated to be Rs.2,79,215/- together with accrued interest. Accordingly, if the petitioner remits the total amount of Rs.10,41,215/- together with accrued interest in six equal and successive monthly installments commencing from 15.11.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against him 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, 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.

(iii) The respondent bank shall furnish the petitioner an upto-date statement of accounts within two weeks from today, so as to enable the petitioner to make the payments as directed in this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

das /20.10.15