IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 32340 of 2014 (N)

PETITIONER :

JOSE THOMAS, S/O.THOMAS,AGED 63 YEARS,
MULAMKUNNATHU HOUSE, KURUMANNU P.O.,
KOTTAYAM.

BY ADV. SMT.CHITHRA R.SHENOY

RESPONDENT(S):
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1. THE MEENACHIL URBAN CO-OPERATIVE BANK LTD.,
NO.4266, POONJAR, POONJAR, THEKKEKKARA P.O,
KOTTAYAM, REPRESENTED BY ITS SECRETARY- 686 582

2. AUTHORISED OFFICER,
CHIEF ACCOUNTS/ MANAGER,
------DO------ ---DO----

R1 & R2 BY ADVS. SRI.SHAJI THOMAS
SRI.BINU PAUL
SRI.T.V.VINU
SRI.CHERIAN MATHEW POOTHICOTE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

sts

WP(C).No. 32340 of 2014 (N)
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APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 **TRUE COPY OF THE POSSESSION NOTICE DATED 17-10-2014**

EXHIBIT P2 **TRUE COPY OF THE NOTICE FOR SALE PUBLISHED IN MANGALAM DAILY DATED 30/01/2015**

RESPONDENT(S)' EXHIBITS
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EXHIBIT R1(A) **TRUE COPY OF THE ENCUMBRANCE CERTIFICATE DATED 30/10/2014 ISSUED FROM THE OFFICE OF THE SUB REGISTRAR, MEENACHIL.**

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.32340 of 2014

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Dated this the 25th day of February, 2015

J U D G M E N T

The petitioner, who had availed of a term 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 issued by the respondent bank to take possession of the immovable property that was offered as security to the respondent bank, for the loan availed by the petitioner. It is submitted that pursuant to Ext.P1 notice, the bank has also taken possession over the secured assets. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Smt.Chithra R.Shenoy, the learned counsel appearing on behalf of the petitioner as also Sri.Shaji Thomas, 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 both the loans availed by the petitioner is stated to be Rs.6,58,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.6,58,000 /- together with accrued interest in 12 equal and successive monthly instalments commencing from 10.03.2015, and continues to keep up regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner by the respondent bank shall be kept in abeyance.

(ii) It is made clear that if the petitioner commit 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

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