IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 21ST DAY OF OCTOBER 2015/29TH ASWINA, 1937

WP(C).No. 32139 of 2015 (N)

PETITIONER(S):

SIVAN B., AGED 50 YEARS,
S/O.BALAKRISHNAN, KAILASAM, PATHIYOORKKALA,
KEERIKKAD P.O., ALAPPUZHA DISTRICT.

BY ADV. SRI.B.RENJITHKUMAR

RESPONDENT(S):
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1. AUTHORISED OFFICER, CANARA BANK,
R & L SECTION, CIRCLE OFFICE, M.G.ROAD, PALAYAM,
THIRUVANANTHAPURAM-795001.

2. THE BRANCH MANAGER,
CANARA BANK, MAVELIKKARA BRANCH,
NADAKKAVU, MAVELIKKARA-690101.

BY SRI.PAULY MATHEW MURICKEN,SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 32139 of 2015 (N)

APPENDIX

PETITIONERS' EXHIBITS

P1: **COPY OF THE RELEVANT PORTION OF THE SAID PUBLICATION DATED 17/10/15 IN THE HINDU' DAILY.**

RESPONDENTS' EXHIBIT

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 32139 of 2015
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Dated this the 21st day of October, 2015

JUDGMENT

The petitioner, who had availed a cash credit facility as also 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 sale notice issued to the petitioner 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 outstanding amount, in respect of the cash credit facility, is stated to be Rs.8,84,164/- as on 30.09.2015. Similarly, the total overdue amount in respect of the loan is stated to be Rs.3,61,242/- as on 30.09.2015. Accordingly, if the petitioner remits the total amount of Rs.12,45,406/- together with accrued interest from 30.09.2015 and other charges in twelve 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 with an upto-date statement of accounts in both the loan so as to enable the petitioner to discharge his liability in accordance with the directions in this judgment, within a period of two weeks.

A.K.JAYASANKARAN NAMBIAR
JUDGE

das /21.10.15