IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

WP(C).No. 32377 of 2015 (V)

PETITIONER(S):

BAIJU K., AGED 49 YEARS,
S/O. KARUNAKARAN, M/S. HOTEL AMBALAKKARA REGENCY,
PULAMON JUNCTION, KOTTARAKARA, KOLLAM DISTRICT.

BY ADVS.SRI.PRAVEEN K. JOY,
SRI.T.A.JOY.

RESPONDENTS:-
----

1. THE AUTHORISED OFFICER,
   CANARA BANK, LAXMI CHAMBERS, VAZHUTHAKADU,
   TRIVANDRUM - 695 015.

2. THE BRANCH MANAGER,
   CANARA BANK, VAZHUTHAKADU BRANCH,
   TRIVANDRUM - 695 015.

BY ADV. SRI.PAULY MATHEW MURICKEN, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 32377 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS:-

P1. THE TRUE PHOTOCOPY OF 13(2) NOTICE DATED 01/09/2015.

P2. THE TRUE PHOTOCOPY OF THE RECEIPT DATED 18.08.2015 FOR RS. 1 LAKH.

P3. THE TRUE PHOTOCOPY OF THE RECEIPT DATED 31.08.2015 FOR RS. 1 LAKH.

P4. THE TRUE PHOTOCOPY OF THE RECEIPT DATED 08.09.2015 FOR RS.75,000/-.

P5. THE TRUE PHOTOCOPY OF THE APPLICATION FOR REGULARIZATION BEFORE THE RESPONDENTS.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C).No.32377 of 2015

...

Dated this the 15th day of December, 2015

J U D G M E N T

The petitioner, who had availed of 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 notice issued under Section 13(2) of the SARFAESI Act. It is also stated that thereafter, a possession notice has also been issued to the petitioner by the respondent bank. 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 for the petitioner as also the learned Standing counsel appearing 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 respondent 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 overdue amount, in respect of the cash credit facility as well as the term loan is stated to be Rs.8,60,000/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.8,60,000/- together with accrued interest in six equal and successive monthly installments commencing from 05.01.2016, and continues to keep up the regular installment payments as per the original loan schedule in the term loan account, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is further 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/15.12.15