IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(C).No. 32406 of 2015 (A)

PETITIONER(S) :

NAFEESA K.A, AGED 58 YEARS,
HOUSE NO.XI/663, AREEKODATH HOUSE, ALANGAD POST,
KOTTAPURAM , ALUVA 683 511.

BY ADV. SRI.R.VENUGOPAL

RESPONDENT(S):
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1. THE ERNAKULAM DISTRICT CO-OPERATIVE BANK LTD., HEAD OFFICE, P.B.NO.4, KAKKANAD, REPRESENTED BY ITS GENERAL MANAGER, PIN- 682 030.

2. THE ERNAKULAM DISTRICT CO-OPERATIVE BANK LTD., ALUVA MAIN BRANCH, ALUVA, REPRESENTED BY ITS BRANCH MANAGER, PIN 683 101.

3. THE AUTHORISED OFFICER (EXECUTIVE OFFICER), THE ERNAKULAM DISTRICT CO-OPERATIVE BANK LTD., HEAD OFFICE, P.B NO 4, KAKKANAD, COCHIN 682 030

BY ADV. SMT.I.SHEELA DEVI, S.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 32406 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: PHOTO COPY OF THE RELEASE DEED DATED 11-09-2014 EXECUTED BY THE 2ND RESPONDENT.

EXHIBIT P2: PHOTO COPY OF THE LETTER DATED 03-08-2015 BY THE OFFICE OF THE 3RD RESPONDENT.

EXHIBIT P3: PHOTO COPY OF THE REPLY DATED 14-08-2015 OF THE PETITIONER.

EXHIBIT P4: PHOTO COPY OF THE RECEIPT DATED 08-08-2015 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P5: PHOTO COPY OF THE RECEIPT DATED 11-08-2015 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P6: PHOTO COPY OF THE RECEIPT DATED 17-08-2015 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P7: PHOTO COPY OF THE NOTICE DATED 19-08-2015 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P8: PHOTO COPY OF THE RECEIPT DATED 31-08-2015 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P9: PHOTO COPY OF THE REPLY NOTICES DATED 03-10-2015.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.
...
W.P.(C).No.32406 of 2015
...
Dated this the 22nd day of December, 2015

J U D G M E N T

The petitioner, who had availed of a 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.P7 is the notice issued under Section13(2) of 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 her 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 overdue amount, in respect of loan availed by the petitioner, is stated to be Rs.52,766/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.52,766/- together with accrued interest in two equal and successive monthly installments commencing from 05.01.2016, and continues to keep up the regular installments as per the original loan schedule, then further proceedings for recovery shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits a default in respect of any of the installments, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

(iii) The respondent bank shall, within a period of two weeks from today, provide the petitioner with an up-to-date statement of accounts so as to enable the petitioner to discharge the liability in accordance with the directions of this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/22.12.15