IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No. 32455 of 2015 (F)

PETITIONER(S):

ANAPPATTATH SALMA,
W/O.THAYYIL EDAREEZA, ANAPPATTATH HOUSE,
KARUVARAKUNDU P.O, MALAPPURAM DISTRICT.

BY ADV. SRI.SUNIL KUMAR A.G

RESPONDENT(S):

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1. THE NILAMBUR CO-OPERATIVE URBAN BANK LTD.
   F-1043, NILAMBUR, MALAPPURAM DISTRICT,
   REPRESENTED BY ITS DEPUTY GENERAL MANAGER 679 229.

2. THE AUTHORISED OFFICER,
   THE NILAMBUR CO-OPERATIVE URBAN BANK LTD, F-1043,
   NILAMBUR, MALAPPURAM 679 229.

   BY SRI.DEVAPRASANTH.P.J.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 32455 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE RECIEPT DATED 4.9.15.

EXHIBIT P2. COPY OF THE REQUEST DATED 18.9.15.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.32455 of 2015

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Dated this the 30th day of October, 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. It is submitted that the petitioner had already approached this Court on an earlier occasion through W.P.(C).No.31564 of 2014, when this Court granted the petitioner four instalments to discharge the then overdue amount. Counsel for the petitioner submits that while the petitioner paid an amount of Rs.1,40,000/-, she could not pay any further amounts since her husband was hospitalised and huge amounts were spent in connection with the hospitalisation of her husband. She therefore again approached this Court through W.P.(C).No.20931 of 2015. The said writ petition was, however, dismissed without prejudice to the right of the petitioner to request the respondent bank for a regularisation of the loan account. It is submitted that, thereafter, the petitioner paid a further amount of Rs.1,50,000/- on 04.09.2015 and sought regularisation of the loan account. The said request, however, was not accepted by the respondent bank and it is under those circumstances, that the petitioner has approached this Court through the present writ petition.

2. I have heard the learned counsel for the petitioner and the learned Standing Counsel appearing on behalf of the respondent bank. The learned Standing counsel for the respondent bank would vehemently oppose the grant of any concession to the petitioner and submit that the petitioner is a chronic defaulter and no lenient view can be shown to the petitioner. Counsel for the petitioner, however, would point out the circumstances under which she was not able to pay any amount and requested for a lenient view to be taken by this Court.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I am of the view that the interests of justice would be met by permitting the petitioner to discharge the entire liability due to the bank, rather than seek a regularisation of the loan account, I therefore dispose the writ petition with the following directions:-

> (i) The total amount outstanding from the petitioner to the respondent bank, as of today is stated to be Rs.6,00,000/- together with accrued interest. Accordingly, if the petitioner pays the

aforesaid amount of Rs.6,00,000/- together with accrued interest in four equal and successive monthly instalments commencing from 16.11.2015, 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 commits 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.

(iii) The respondent bank shall furnish the petitioner with an up-to-date statement of account within a period of one week from today so as to enable the petitioner to discharge the liability due to the respondent bank in accordance with the directions in this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/30.10.15