IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WP(C).No. 32884 of 2015 (I)

PETITIONER(S):

JOHN KUTTY V.S.,
VELIYIL HOUSE, POLLATHAI P.O., ALAPPUZHA.

BY ADV. SMT.E.V.MOLY

RESPONDENT(S):

KERALA STATE CO-OPERATIVE BANK LTD.
REGIONAL OFFICE, ANANDHI BUILDING, PULLEPADY JUNCTION,
CHITTOOR ROAD, ERNAKULAM, KOCHI,
REPRESENTED BY ITS AUTHORIZED OFFICER.

BY SRI.GEORGE POONTHOTTAM, SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 32884 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : COPY OF THE DEMAND NOTICE DTD.25.3.2015.

P2 : COPY OF THE SYMBOLIC POSSESSION NOTICE DTD.20.8.2015.

P3 : COPY OF THE NOTICE DTD.11.8.2015.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.32884 of 2015

....

Dated this the 4th day of November, 2015

J U D G M E N T

The petitioner, who had availed of a housing 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.P2 is the notice issued under Section 13 (4) 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 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 the loan availed by the petitioner is stated to be Rs.1,66,671/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,66,671/- together with accrued interest in seven equal and successive monthly instalments commencing from 30.11.2015, and continues to keep up the regular instalments as per the original loan schedule, further proceedings against the petitioner 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/04.10.15