IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

WP(C).No. 32905 of 2015 (K)

PETITIONER(S):

M. ALAVI, AGED 58 YEARS, S/O.MAMMOOTTY,
MOZHIYOTTIL HOUSE, ANANTHAVOOR P.O.-676301.

BY ADVS.SRI.S.VISHNU (TRIPUNITHURA)
SRI.P.M.GIRIJAVALLABHAN

RESPONDENT(S):
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1. THE TIRUR URBAN CO-OPERATIVE BANK,
TIRUR, MALAPPURAM DISTRICT-676104.

2. THE SECRETARY,
THE TIRUR URBAN CO-OPERATIVE BANK,
TIRUR, MALAPPURAM DISTRICT-676104.

BY SRI.M.SASEENDRAN,SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 32905 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 TRUE COPY OF PASSBOOK

EXHIBIT P2: TRUE COPY OF POSSESSION NOTICE DATED 4/8/15.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 32905 of 2015
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Dated this the 29th day of October, 2015

JUDGMENT

The petitioner, who had availed 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.P2 is the notice issued to the petitioner under Section 13(4) of the SARFAESI Act. It is stated that pursuant to Ext.P2, the bank has also taken possession of the secured asset.

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 overdue amount, in respect of the loan, is stated to be Rs.1,24,359/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,24,359/- together with accrued interest in four 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) It is made clear that on the petitioner paying the amount of Rs.1,24,359/- either in the installments directed in this judgment or prior to that, the respondent bank shall regularise the loan account and hand over possession of the secured asset to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /29.10.15