IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 32954 of 2015 (T)

PETITIONER(S):

MUHAMMED BASHEER K.T., S/O.KHADEEJA,
AGED 36 YEARS, ATHIMANNIL HOUSE, MAILOOTH,
MANHAPPATTA, MAILUTH, ELANKUR POST,
MALAPPURAM DISTRICT.

BY ADVS.SRI.K.M.JAMALUDHEEN,
SMT.LATHA PRABHAKARAN,
SRI.K.ABDUL HAKEEM,
SRI.JOBY VARGHESE,
SRI.P.M.ABDUL JALEEL.

RESPONDENT(S):
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1. THE AUTHORIZED OFFICER-CUM DEPUTY GENERAL MANAGER, THE NILAMBUR CO-OPERATIVE URBAN BANK LIMITED, F.1043, NILAMBUR POST, MALAPPURAM DISTRICT.

2. THE NILAMBUR CO-OPERATIVE URBAN BANK LIMITED, F.1043, TRIKKALAMGODE BRANCH, THRIKKALAMGODE POST, MALAPPURAM DISTRICT, REPRESENTED BY ITS BRANCH MANAGER.

BY ADV. SRI.P.J.DEVAPRASANTH, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 32954 of 2015 (T)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1. A TRUE PHOTOCOPY OF THE CMP NO.2477/2015 FILED BY THE RESPONDENTS BANK BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, MANJERI.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32954 OF 2015 (T)

Dated this the 6th day of November, 2015

<u>J U D G M E N T</u>

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.P1 is the copy of the application filed by the respondent bank before the Chief Judicial Magistrate Court, Manjeri. 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 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 availed by the petitioner, is stated to be Rs.9,14,543/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.9,14,543/- together with accrued interest in eight equal and successive monthly installments commencing from 30.11.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.
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> (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

prp/6/11/15