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. 33022 of 2015 (C)

PETITIONER(S):

BASHEER KUTTY, S/O.SULAIMAN KUTTY,
PROPRIETOR, MAVELI ENTERPRISES,
RESIDING AT MAVELI THEKKETHIL HOUSE,
THEKKUMKARACHERRY, PULLICHIRA P.O.,
KOTTIYAM, KOLLAM.

BY ADVS.SRI.C.UNNIKRISHNAN (KOLLAM),
SRI.R.KISHORE (KALLUMTHAZHAM).

RESPONDENT(S):
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1. CHIEF MANAGER, REGION-1,
STATE BANK OF TRAVANCORE,
ZONAL OFFICE, KADAPPAKKADA,
KOLLAM-691 001.

2. THE AUTHORIZED OFFICER,
STATE BANK OF TRAVANCORE,
REGION-1, ZONAL OFFICE,
KADAPPAKKADA, KOLLAM-691 001.

3. THE BRANCH MANAGER,
STATE BANK OF TRAVANCORE,
MAYYANAD BRANCH, KOLLAM-691 001.

BY ADV. SRI.R.S.KALKURA, SC.

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

rs.

WP(C).No. 33022 of 2015 (C)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 **COPY OF THE ORDER DATED 25/09/2015 ISSUED BY THE HONOURABLE C.J.M, COURT KOLLAM.**

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33022 OF 2015 (C)

Dated this the 30th day of October, 2015

J U D G M E N T

The petitioner, who had availed of a term loan as also a cash credit facility 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 order passed by the Chief Judicial Magistrate Court, Kollam. 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 term loan, availed from the respondent bank, is stated to be Rs.38,000/- together with accrued interest. Similarly, the total amount outstanding from the petitioner, in respect of the cash credit facility, is stated to be Rs.15,06,877/-. Accordingly, if the petitioner remits the total amount of Rs.15,44,877/- together with accrued interest, in ten 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, in the term loan, then the recovery steps, if any, 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/30/10/15