IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 33049 of 2015 (E)
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PETITIONER(S):

P.S.RAMESH KUMAR, AGED 59 YEARS,
SON OF LATE PRABHAKARAN NAIR,
NOW RESIDING AT 1ST FLOOR, KAILASH, PADMAVILASAM ROAD,
FORT, THIRUVANANTHAPURAM-695 024.

BY ADV. SMT.ANNAMMA ABRAHAM

RESPONDENT(S):
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1. **THE AUTHORIZED OFFICER,**
   KARNATAKA BANK LTD., REGISTERED AND HEAD OFFICE,
   P.B.NO.599, MAHAVEERA CIRCLES, KANAKANADY,
   MANGLURU-575 002.

2. **THE AUTHORIZED OFFICER AND CHIEF MANAGER,**
   KARNATAKA BANK LTD., THAKARAPARAMBU ROAD BRANCH, FORT,
   THIRUVANANTHAPURAM - 695 023.

BY ADV. SRI.P.SREEHARI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 33049 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- TRUE PHOTOCOPY OF THE DEMAND NOTICE DATED 6.3.2015 UNDER SECTION 13(2) READ WITH 13(3) OF THE SARFAESI ACT ISSUED TO THE PETITIONER AND HIS WIFE BY THE RESPONDENT BANK.

P2- TRUE PHOTOCOPY OF THE POSSESSION NOTICE DATED 15.7.2015 AFFIXED IN THE BUILDING OFFERED AS SECURITY BY THE RESPONDENT BANK.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33049 OF 2015 (E)

Dated this the 4th day of December, 2015

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

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 possession notice issued to the petitioner under 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 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.4,21,806/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.4,21,806/- together with accrued interest from 30.11.2015 in six equal and successive monthly installments commencing from 21.12.2015, 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.

(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/4/12/15