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. 33085 of 2015 (I)

PETITIONER(S) :

ZAINU ALI HASSAN, AGED 58 YEARS,
S/O.THENU ZAINU, CHAKKALAKUNNANPANICKERKALATHIL HOUSE,
CPS MANZIL, KODAKKAD P.O- 678 583, NATTUKAL,
MANNARKAD, PALAKKAD DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENT(S) :
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1. STATE BANK OF TRAVANCORE,
   PERUNTHALMANNA BRANCH, MALAPPURAM, PIN- 679 322,
   REPRESENTED BY ITS AUTHORISED OFFICER,
   (CHIEF MANAGER).

2. RESERVE BANK OF INDIA,
   REPRESENTED BY ITS REGIONAL MANAGER,
   REGIONAL OFFICE, ERNAKULAM- 682 016.

R1 BY SRI.T.SETHUMADHAVAN (SENIOR ADVOCATE)
ADV. SRI. JAYESH MOHAN KUMAR, S.C

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

Msd.

WP(C).No. 33085 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF STATEMENT ISSUED BY THE 1ST RESPONDENT TOWARDS HOUSING LOAN OF THE PETITIONER.

EXHIBIT P2: TRUE COPY OF THE STATEMENT ISSUED BY THE 1ST RESPONDENT TOWARDS CREDIT LOAN OF THE PETITIONER.

EXHIBIT P3: TRUE COPY OF THE NOTICE DATED 08.12.2014 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE NOTICE DATED 05.10.2015 OF THE 1ST RESPONDENT.

EXHIBIT P5: TRUE COPY OF THE NOTICE DATED 14.10.2015 ISSUED BY THE ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33085 OF 2015 (I)

Dated this the 30th day of October, 2015

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

The petitioner, who had availed of a housing loan as well as an overdraft 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.P5 is the notice issued by the Advocate Commissioner. 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 housing loan availed by the petitioner, is stated to be Rs.1,50,000/- together with accrued interest. Similarly, the total overdue amount, in respect of the overdraft facility availed by the petitioner, is stated to be Rs.2,50,000/- together with accrued interest. Accordingly, if the petitioner pays the total overdue amount in respect of both the loans of Rs.4,00,000/- together with accrued interest in six 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 housing loan account, and complies with the requirement for continuing the overdraft facility as stated by the respondent bank, 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/30/10/15