IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 33372 of 2014 (V)

PETITIONER :

JOSEPH ANTONY,
S/O.ANTONY JOSEPH, RESIDING AT 31/123,
CHAKKALAKKAL HOUSE, JUNIOR JANATHA ROAD,
VYTILLA, KOCHI - 682 019.

BY ADV. SMT.E.V.MOLY

RESPONDENT :

THE SOUTH INDIAN BANK LTD,
REGIONAL OFFICE, ERNAKULAM, SIB BUILDING,
INFORPARK ROAD, RAJAGIRI VALLEY P.O., KAKKANAD,
KOCHI - 682 039,
REPRESENTED BY ITS AUTHORIZED OFFICER.

BY ADV. SRI.K.K.JOHN,SC,SOUTH INDIAN BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 33372 of 2014 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. **THE TRUE COPY OF THE NOTICE DATED 22.11.2014 ISSUED UNDER SECTION 13(2) OF THE SARFAESI ACT.**

RESPONDENT(S)' EXHIBITS: **NIL**
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/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.33372 of 2015

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Dated this the 11th day of March, 2015

J U D G M E N T

The petitioner, who had availed of two loans 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 under Section 13 (2) of 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 on behalf of the petitioner as also the learned Standing counsel 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 instalments. 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.3,99,539/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.3,99,539/- together with accrued interest in four equal and successive monthly instalments commencing from 27.03.2015, and continues to keep up the regular instalments in the vehicle loan account and complies with the formalities vested upon by the respondent bank in respect of the overdraft facility, the recovery steps initiated against the petitioner 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 instalments, 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

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