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. 33294 of 2015 (J)

PETITIONER(S):

K.V.KASMIN, AGED 58 YEARS,
S/O VASUDEVAN K.A., RESIDING AT SIVASAKTHI APARTMENTS,
BLOCK NO IA, SANSKRIT COLLEGE ROAD,
TRIPUNITHURA, ERNAKULAM DISTRICT.

BY ADVS.SRI.T.MADHU
SMT.C.R.SARADAMANI

RESPONDENT(S):
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1. THE AUTHORIZED OFFICER,
INDUSTRIAL DEVELOPMENT BANK OF INDIA LIMITED (IDBI LIMITED),
24/36, KALPALATATHIKA TOWERS, 1ST FLOOR,
DR. AMBEDKAR ROAD, KODAMBAKKAM, CHENNAI - 600 024.

2. THE INDUSTRIAL DEVELOPMENT BANK OF INDIA LIMITED (IDBI LIMITED),
REPRESENTED BY ITS GENERAL MANAGER, HEAD OFFICE,
IDBI TOWER, WTC COMPLEX, CUFFE PARADE, MUMBAI - 400 005.

3. THE MANAGER,
INDUSTRIAL DEVELOPMENT BANK OF INDIA,
LIMITED (IDBI LIMITED) ERNAKULAM BRANCH,
2ND FLOOR, IDBI BUILDING, PANAMPALLY NAGAR,
NEAR PASSPORT OFFICE, KOCHI - 682 036.

BY ADVS. SRI.BIBIN KUMAR
SRI. MOHAN DAS N.S
SRI.T.S.SUMSON

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. 33294 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 THE TRUE COPY OF THE NOTICE DATED 10-09-2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33294 OF 2015 (J)

Dated this the 4th day of December, 2015

J U D G M E N T

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.P1 is the notice issued to the petitioner 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 for the petitioner as also the learned Standing counsel appearing for the respondent bank.

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.2,00,000/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.2,00,000/- together with accrued interest in five 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