IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

WP(C).No. 33417 of 2015 (B)

PETITIONER:

SHIHABDEEN A P.,
ARACKAKUDDIYAL HOUSE, NELLIKUZHU P.O., COMPANYPADY,
KOTHAMANGALAM, ERNAKULAM -686 691.

BY ADVS.SRI.P.K.VARGHESE
SRI.T.M.SUDHEER

RESPONDENTS:
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1. THE ASSISTANT -SPECIAL SALE OFFICER,ERNAKULAM DISTRICT CO-OPERATIVE BANK LIMITED, KAKKANAD, ERNAKULAM - 682 030.

2. THE ERNAKULAM DISTRICT CO-OPERATIVE BANK LIMITED, KEERAMPARA BRANCH, REPRESENTED BY ITS MANAGER, ERNAKULAM DISTRICT CO-OPERATIVE BANK LIMITED, KEERAMPARA BRANCH, ERNAKULAM - 686 681.

R BY SMT.I.SHEELA DEVI, SC, ERNAKULAM DIST.CO.OP.BANK LTD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT-P1-TRUE COPY OF THE DEMAND NOTICE DATED 06/10/2015.

EXHIBIT-P2-TRUE COPY OF THE REPRESENTATION DATED 12/10/2015

RESPONDENTS' EXHIBITS: NIL

/True Copy/

P.A to Judge.

rv

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 33417 of 2015 (B)

Dated this the 12th day of November, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondent Bank, apart from perusing the record.

2. The petitioner, a borrower from the second respondent Bank, assailed Ext.P1 notice directing payment of ₹ 4,40,500/- .

3. The learned counsel for the petitioner has submitted that the petitioner, despite his best efforts, could not repay the loan amount owing to stringent financial conditions faced by him. Accordingly, the petitioner has sought the indulgence of this Court for a direction to the respondent Bank to receive from the petitioner the outstanding loan amount in instalments.

4. Before appreciating the submissions of the learned counsel for the second respondent Bank, I may have to observe that expansive as the jurisdiction of Article 226 of the Constitution of India is, I am afraid, it does not go to the extent of interdicting the contractual terms, especially in a financial transaction involving public money, so as to compel the respondent Bank to agree for

instalments.

5. Be that as it may, evidently being fully aware of the difficulties involved in realising the loan amounts through the process of invidious sale of the property, the learned counsel for the second respondent, to his credit, evidently on instructions, has submitted that the respondent Bank is willing to collect the outstanding loan amount in ten monthly instalments.

In the facts and circumstances, essentially based on the concession made by the learned counsel for the respondent Bank, this Court disposes of the writ petition with a direction to the petitioner to pay the entire outstanding loan amount in ten equal monthly instalments starting from 01.12.2015. Needless to observe that, if the petitioner fails to deposit the said amount within the stipulated time, the respondent Bank is at liberty to proceed further without recourse to this Court.

sd/- DAMA SESHADRI NAIDU, JUDGE.

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