IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 33641 of 2014 (E)

PETITIONER(S):

M.R.SURESH, AGED 42 YEARS
S/O. RAMAKRISHNAN, MANALAMKUNNATH HOUSE, PUNNAMPARAMBU
THEKKUMKARA P.O., THRISSUR-680 589.

BY ADVS.DR.V.N.SANKARJEE
SRI.V.N.MADHUSUDANAN
SMT.R.UDAYA JYOTHI
SRI.M.K.SIDHAN
SRI.PRATHAP. S.R.K.

RESPONDENT(S):
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1. **THE AUTHORISED OFFICER**
   STATE BANK OF INDIA, IRINJALAKUDA
   THRISSUR DISTRICT-680 121.

2. **THE STATE BANK OF INDIA**
   IRINJALAKUDA BRANCH, THRISSUR DISTRICT-680 121
   REPRESENTED BY ITS BRANCH MANAGER.

R1,2 BY ADV.SRI.S.EASWARAN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 33641 of 2014 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 : COPY OF THE DISCHARGE SUMMARY DTD.15.9.2014.

EXT.P2 : PHOTOGRAPHS (2 IN NO.) SHOWING THE PETITIONER'S MOTHER'S PRESENT STATE OF AFFAIRS.

EXT.P3 : COPY OF THE CHALLAN RECEIPTS DTD.31.1.2014 AND 13.3.2014.

EXT.P4 : COPY OF THE LOAN DISCHARGE QUOTE DTD.13.3.2014 ISSUED BY THE RESPONDENT.

EXT.P5 : COPY OF THE POSSESSION NOTICE DTD.2.3.2013.

EXT.P6 : COPY OF THE ORDER DTD.18.2.2014 OF THE CHIEF JUDICIAL MAGISTRATE'S COURT, THRISSUR.

EXT.P7 : COPY OF THE ORDER DTD.19.3.2014 IN SA NO.121/2014 OF THE DRT.

EXT.P8 : COPY OF THE RECEIPTS DTD.29.3.2014.

EXT.P9 : COPY OF RECEIPTS DTD.29.4.2014.

EXT.P10 : COPY OF THE LOAN DISCHARGE QUOTE DTD.29.4.2014.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33641 OF 2014 (E)

Dated this the 12th day of February, 2015

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

The petitioner, who had availed of 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.P5 is the possession notice issued to the petitioner under the SARFAESI Act. Ext.P6 is the order of the Chief Judicial Magistrate Court, Thrissur, appointing an Advocate commissioner to take possession of the immovable property that was offered as security to the respondent bank, for the loan availed by the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.V.N.Sankarjee, the learned counsel appearing on behalf of the petitioner as also Sri.Jithesh Menon, the learned Standing counsel appearing on behalf of 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, is stated to be Rs.6,31,000/- together with accrued interest. Accordingly, if the petitioner remits the above amount together with accrued interest in four equal and successive monthly installments commencing from 1.3.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against him by the respondent bank shall be kept in abeyance.
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> (ii) It is 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