IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 33893 of 2014 (J)

PETITIONER(S):

SHINE SINGH R.S. AGED 38 YEARS
S/O.SOLOMON, KOVIL VELLA PUTHEN VEEDU, NO.6
VENGANOOR TOWN, BALARAMAPURAM
THIRUVANANTHAPURAM - 695 001.

BY ADVS.SRI.T.B.HOOD
SMT.M.ISHA

RESPONDENT(S):
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1. **AUTHORISED OFFICER**
   TAMILNAD MERCANTILE BANK LIMITED
   THIRUVANANTHAPURAMREGION, IST FLOOR, KURAISHA PLAZA
   PAPPANAMCODE, THIRUVANANTHAPURAM - 695 018.

2. **BRANCH MANAGER**
   TAMILNAD MERCANTILE BANK LIMITED, KOTTUNGAL BRANCH
   ALIF ARCADE, IST FLOOR, MANI ROAD
   BALARAMAPURAM, THIRUVANANTHAPURAM - 695 501.

R1 BY ADV. SRI.V.V.SURENDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 33893 of 2014 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: TRUE COPY OF THE LOAN PASS BOOK ISSUED TO THE PETITIONER

EXT.P-2: TRUE COPY OF THE NOTICE DATED 31.10.2014 ISSUED BY THE IST RESPONDENT TO THE PETITIONER UNDER SECTION 13(4) OF THE SARFAESI ACT.

EXT.P-3: TRUE COPY OF THE NOTICE DATED 27.11.2014 ISSUED BY THE IST RESPONDENT TO THE PETITIONER UNDER SECTION 13(4) OF THE SARFAESI ACT.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33893 OF 2014 (J)

Dated this the 16th day of January, 2015

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

The petitioner, who had availed of a housing 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.P2 is the notice issued to the petitioner under Section 13(2) of the SARFAESI Act and Ext.P3 is the possession notice issued to the petitioner under Section 13(4) 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. Heard Sri.T.B.Hood, the learned counsel appearing for the petitioner.

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 from the petitioner, in respect of the loan, to the respondent bank is stated to be Rs.2,02,799/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.2,02,799/-, together with accrued interest, in six equal and successive monthly installments commencing from 31.1.2015, 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