IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 33692 of 2015 (J)

PETITIONER :

NOBY AUGUSTINE
D/O.T.T.AUGUSTINE, THIRUTHANATHIL HOUSE, 11C
PERIYAR RESIDENCY, ALUVA P.O.-683 101.

BY ADVS.SRI.AVANEESH KOYIKKARA
SRI.LINDONS C. DAVIS

RESPONDENT(S) :
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1. **VIJAYA BANK**
   REPRESENTED BY ITS MANAGER, MUKKATH PLAZA
   BYPASS JUNCTION, ALUVA-683 101.

2. **CHIEF MANAGER & AUTHORIZED OFFICER**
   VIJAYA BANK, REGIONAL OFFICE, KOCHI-682 016.

R1 & R2 BY ADV. SMT.LATHA ANAND, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

...2/-

WP(C).No. 33692 of 2015 (J)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1 : TRUE COPY OF POSSESSION NOTICE DT. 20-10-2015 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.33692 of 2015

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Dated this the 6th day of November 2015

JUDGMENT

The petitioner, who had availed 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.P1 is the possession notice issued to the petitioner under 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 appearing on behalf of the respondents.

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.1,45,088/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,45,088/- together with accrued interest in five equal and successive monthly installments commencing from 30.11.2015, 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.

(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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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