IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 34085 of 2015 (I)

PETITIONER(S):

JASMIN SONY, AGED 40 YEARS,
W/O.LATE SONY K.J., KOTTARATHIL HOUSE,
SANTHIPURAN P.O., KARUKACHAL VILLAGE,
CHANGANCHERRY, KOTTAYAM, PIN - 686 540.

BY ADV. SRI.LAVARAJ M.G.

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
TRIVANDRUM - 695 001.

2. KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
KARUKACHAL BRANCH, KOTTAYAM,
REPRESENTED BY ITS BRANCH MANAGER - 684 580.

3. BRANCH MANAGER, KOTTAYAM DISTRICT
CO-OPERATIVE BANK LTD., KARUKACHAL BRANCH,
KOTTAYAM - 684 580.

R1 BY GOVERNMENT PLEADER SRI.RANJITH
R2 & R3 BY ADV. SRI.SUNIL CYRIAC, SC

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

msv/

WP(C).No. 34085 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE NOTICE AFFIXED BY THE AUTHORITY OF THE 2ND RESPONDENT AT THE HOUSE OF THE PETITIONER'S HUSBAND DTD.4.9.2015.

EXT.P2: TRUE COPY OF THE DEATH CERTIFICATE OF THE PETITIONERS HUSBAND, SONY K.J., DTD.18.9.2015.

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.34085 OF 2015 (I)

Dated this the 11th day of November, 2015

J U D G M E N T

The petitioner's husband, who had availed of a house renovation 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 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 her 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.7,27,500/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.7,27,500/- together with accrued interest in eight 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 further proceedings initiated against her 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, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/11/11/15