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. 34304 of 2014 (K)

PETITIONER(S):

SARASAMMA, AGED 72 YEARS
W/O.LATE GOPALAN, RETNA BHAVAN, THEKKUMPURAM MURI,
PUTHOOR (PO), KOTTARAKARA TALUK, KOLLAM DISTRICT

BY ADV. SRI.K.V.ANIL KUMAR

RESPONDENT(S):
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1. **THE AUTHORIZED OFFICER/CHIEF MANAGER,FEDERAL BANK**
   NEAR PERIVATE BUS STAND, PULAMON, KOTTARAKARA
   KOLLAM DISTRICT. PIN: 691 121.

2. **THE BRANCH MANAGER**
   FEDERAL BANK LTD, KOTTARAKARA BRANCH, MARKET JUNCTION
   KOTTARAKARA, KOLLAM DISTRICT. PIN: 691 121.

R, BY ADV. SRI.MADHU RADHAKRISHNAN, SC.
R,R BY ADV. SRI.NELSON JOSEPH

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

WP(C).No. 34304 of 2014 (K)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: A TRUE COPY OF THE STATEMENT OF ACCOUNT OF THE LOAN ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P2: A TRUE COPY OF THE NOTICE DATED 28-10-2014 ISSUED BY THE ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.34304 OF 2014 (K)

Dated this the 16th day of January, 2015

J U D G M E N T

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 by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate, Kollam, 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.K.V.Anil Kumar, the learned counsel appearing for the petitioner as also Sri.Madhu Radhakrishnan, the learned Standing counsel appearing for 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 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 to the respondent bank from the petitioner is stated to be Rs.92,618/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.92,618/- together with accrued interest in four equal and successive monthly installments commencing from 31.1.2015, and continues to keep up the installment payment as per the original loan schedule, then the recovery steps initiated against her 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, 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