IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

WP(C).NO. 34141 OF 2015 (P)

PETITIONER(S):

A.C.JINEESH AGED 31 YEARS
S/O.KARUNAKARAN NAIR
RESIDING AT AREECHALIL HOUSE
P.O.KARAYAD, KOYILANDY, KOZHIKODE

BY ADVS.SRI.V.V.SURENDRAN
SRI.P.M.PADMANABHAN
SRI.P.A.HARISH
SMT.SANIKA.V.S.

RESPONDENT(S):

1. THE AUTHORISED OFFICER
INDUS IND BANK LTD, RAMA BHAVAN
NEAR PARUTHERIPALAM, TOLL JUNCTION,
EDAPPALLY, ERNAKULAM-682024

2. THE CHIEF MANAGER,INDUS IND BANK LTD,
GOURI NARAYAN,OPP.JAYALAKSHMI SILKS, M.G.ROAD,
ERNAKULAM-31

3. THE BRANCH MANAGER, INDUS IND BANK LTD,
1ST FLOOR, PARK COMPLEX, PARK ROAD,
VADAKARA, KOZHIKODE-673101

BY SRI.VARGHESE C.KURIAKOSE.SC.,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 34141 OF 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 : A TRUE COPY OF THE NOTICE DATED 21.04.2015

EXT.P2 : A TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER

EXT.P3: A TRUE COPY OF THE SALE NOTICE

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.34141 of 2015

....

Dated this the 12th day of November, 2015

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

The petitioner, who had availed of a vehicle 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. It is stated that possession of the vehicle has since been taken by the respondent bank. 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 for 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 instalments. 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, as of today, is stated to be Rs.84,218/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.84,218/- together with accrued interest in two equal and successive monthly instalments commencing from 30.11.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner 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 instalments, 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.

(iii) It is made clear that on the petitioner paying the amount of Rs.84,218/- either in accordance with the directions in this judgment or before that, then the respondent bank shall on receipt of the said amount forthwith release the vehicle to the petitioner and regularise the loan amount.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/12.11.15