IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 34297 of 2015 (J)

PETITIONER:

SALIM, AGED 50 YEARS,
S/O HABEED BAVARAWTHER, AKBAR SHA MANZIL,
MOOSAVARIKUNNU, PUNALUR.P.O, KOLLAM DISTRICT.

BY ADV. SRI.MANOJ RAMASWAMY

RESPONDENTS:
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1. THE GENERAL MANAGER,
KOLLAM DISTRICT CO-OPERATIVE BANK LTD, HEAD OFFICE
N.H.208, CHINNAKKADA, KOLLAM-691 001.

2. THE BRANCH MANAGER,
KOLLAM DISTRICT CO-OPERATIVE BANK LTD, PUNLAR BRANCH
PUNALUR, KOLLAM-691 305.

3. THE ASSISTANT REGISTRAR OF CO-OPERATIVE
SOCIETIES & ARBITRATOR,
KOLLAM DISTRICT CO-OPERATIVE BANK LTD.,
KOLLAM-691 003.

R1,R2 BY ADV. SRI.T.R.HARIKUMAR, SC, KOLLAM DISTRICT
CO-OPERATIVE BANK LTD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

P1 TRUE COPY OF THE AWARD IN ARC-3388/14.

P1(a) TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P1.

RESPONDENTS' EXHIBITS: NIL

/True Copy/

P.A to Judge.

rv

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 34297 of 2015 (J)

Dated this the 20th day of November, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondent Bank, apart from perusing the record.

2. The petitioner, a borrower from the second respondent Bank, assailed Ext.P1award directing payment of ₹ 79,095/- .

3. The learned counsel for the petitioner has submitted that the petitioner, despite his best efforts, could not repay the loan amount owing to stringent financial conditions faced by him. Accordingly, the petitioner has sought the indulgence of this Court for a direction to the respondent Bank to receive from the petitioner the outstanding loan amount in instalments.

4. Before appreciating the submissions of the learned counsel for the second respondent Bank, I may have to observe that expansive as the jurisdiction of Article 226 of the Constitution of India is, I am afraid, it does not go to the extent of interdicting the contractual terms, especially in a financial transaction involving public money, so as to compel the respondent Bank to agree for

instalments.

5. Be that as it may, evidently being fully aware of the difficulties involved in realising the loan amounts through the process of invidious sale of the property, the learned counsel for the second respondent, to his credit, evidently on instructions, has submitted that the respondent Bank is willing to collect the outstanding loan amount in five monthly instalments.

In the facts and circumstances, essentially based on the concession made by the learned counsel for the respondent Bank, this Court disposes of the writ petition with a direction to the petitioner to pay the entire outstanding loan amount in five equal monthly instalments starting from 01.12.2015. Needless to observe that, if the petitioner fails to deposit the said amount within the stipulated time, the respondent Bank is at liberty to proceed further without recourse to this Court.

sd/- DAMA SESHADRI NAIDU, JUDGE.

rv