IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

WP(C).No. 34449 of 2015 (E)

PETITIONER :

M.V. SHIVASANKARAN
S/O.UNNAMAN, AGED 52 YEARS
MOOTHAVEETTIL HOUSE
KATTILANGADI, THANUR P.O.,
MALAPPURAM DISTRICT.

BY ADV. SRI.U.K.DEVIDAS

RESPONDENT(S) :
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1. THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, UP HILL, MALAPPURAM P.O.,
MALAPPURAM DISTRICT
REPRESENTED BY ITS GENERAL MANAGER
(THE AUTHORIZED OFFICER).

2. THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.,
THANUR BRANCH, REPRESENTED BY MANAGER
THANUR P.O., MALAPPURAM DISTRICT.

R1 & R2 BY ADV. SRI.E.S.M.KABEER, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF THE C.M.P. NO. 2652 OF 2015 BEFORE THE HON'BLE CHIEF JUDICIAL MAGISTRATE COURT, MANJERI DATED 15.9.2015.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.34449 OF 2015 (E)

Dated this the 16th day of November, 2015

J U D G M E N T

The petitioner, who had availed of a 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 copy of the application filed before the Chief Judicial Magistrate Court, Manjeri. 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 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 availed by the petitioner, is stated to be Rs.25,000/-. Accordingly, if the petitioner pays the said amount of Rs.25,000/- on or before 30.11.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.
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> (ii) It is further 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/16/11/15