IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 34698 of 2014 (J)

PETITIONER(S):

MOHAMMED HUSSAIN, AGED 35 YEARS,
S/O.ALI P. POOVAKKODAN HOUSE,
KUNNAPPALLI P.O. PERINTHALMANNA,
MALAPPURAM DISTRICT- 679 322.

BY ADVS.SRI.A.HAROON RASHEED,
SRI.C.R.REKHESH SHARMA.

RESPONDENT(S):
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1. SUNDARAM BNP PARIBAS HOME FINANCE LIMITED,
   SUNDARAM TOWERS, 46, WHITES ROAD,
   CHENNAI-600 014.

2. THE AUTHORIZED OFFICER,
   SUNDARAM BNP PARIBAS HOME FINANCE LIMITED,
   TC. 32/49 2ND FLOOR, (ABOVE SUNDARAM FINANCE),
   CALICUT ROAD, MANJERI, MALAPPURAM DISTRICT- 676 121.

BY ADV. SRI.VARGHESE C.KURIAKOSE, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 34698 of 2014 (J)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 - **THE TRUE COPY OF THE NOTICE DATED 01-06-2014 UNDER SECTION 13(2) OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT ISSUED BY THE RESPONDENTS TO THE PETITIONER.**

RESPONDENT'S EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.34698 OF 2015 (J)

Dated this the 3rd day of March, 2015

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

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 notice issued to the petitioner under Section 13(2) of 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 Sri.A.Haroon Rasheed, the learned counsel appearing for the petitioner as also Sri.Varghese Kuriakose, the learned Standing counsel appearing 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 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 is stated to be Rs.1,85,405/- together with accrued interest. Accordingly, if the petitioner pays the above amount together with accrued interest in six equal and successive monthly installments commencing from 20.3.2015, and continues to keep up the regular installment payments as per the original loan schedule, then further proceedings initiated against him 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, 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