IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WP(C).NO. 34970 OF 2014 (U)

PETITIONER(S):

M.K.GOPI,
RESIDING AT MANAKKATTU HOUSE, PALA P.O

BY ADV. SMT.E.V.MOLY

RESPONDENT(S):

PALA URBAN CO-OPERATIVE BANK LTD, REP. BY ITS AUTHORIZED OFFICER
H.O.PALA 686 575

R1 BY ADV. SRI.P.C.HARIDAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 34970 OF 2014 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 COPY OF THE POSSESSION NOTICE DATED 26/11/2014

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.34970 OF 2014

Dated this the 29th day of January, 2015

J U D G M E N T

The petitioner, who had availed of an overdraft facility 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 possession notice under 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 Smt.Moly.E.V, the learned counsel appearing on behalf of the petitioner as also Sri.P.C.Haridas, the learned Standing counsel appearing on behalf of 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 amount outstanding from the petitioner to the respondent bank is stated to be Rs.30,95,262/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.30,95,262/- in 12 equal and successive monthly instalments commencing from 15.02.2015, the recovery proceedings initiated against the petitioner 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns