IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

WP(C).No. 35097 of 2015 (J)

PETITIONER:

RAHUL,
S/O.RAMANCHANDRAN PILLAI,
AGED 26 YEARS, CHANGATTU HOUSE,
THOTTAKKADU.P.O, KARAVARAM VILLAGE,
CHIRAYINKEEZHUY TALUK, ATTINGAL,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS:
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1. THE AXIS BANK LTD.,
   REPRESENTED BY THE REGIONAL MANAGER,
   REGIONAL OFFICE, KILLI TOWERS, KILLLIPPALAM,
   NEAR PRS HOSPITAL, KARAMANA,
   THIRUVANANTHAPURAM-695002.

2. THE AUTHORIZED OFFICER,
   UNDER THE SARFAESI ACT, AXIS BANK LTD.,
   RETAIL ASSETS CENTRE, KILLI TOWERS,
   KILLIPPALAM, NEAR PRS HOSPITAL, KARAMANA,
   THIRUVANANTHAPURAM-695002.

3. THE BRANCH MANAGER,
   AXIS BANK, SREEKARYAM BRANCH, SREEKARYAM,
   THIRUVANANTHAPURAM - 695 041.

BY ADV. SMT.SREEKALA KRISHNADAS, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 35097 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1: **TRUE COPY OF THE NOTICE OF THE ADVOCATE COMMISSIONER DATED 09.10.2015.**

EXT.P2: **TRUE COPY OF THE REPRESENTATION OF THE PETITIONER SUBMITTED TO THE 2ND RESPONDENT DATED 6.11.2015.**

RESPONDENT(S)' EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.35097 of 2015

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Dated this the 27th day of November, 2015

J U D G M E N T

The petitioner, who stood as a co-applicant in the loan availed from the 3rd respondent, 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. 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 is stated to be Rs.9,64,125/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.9,64,125/- together with accrued interest in ten equal and successive monthly instalments commencing from 15.12.2015, and continues to keep up the regular instalments as per the original loan schedule, further proceedings 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.

(iii) It is made clear that on the petitioner paying the aforesaid amount of Rs.9,64,125/- either in accordance with the directions in this judgment or earlier, the respondents shall handover the possession of the secured asset to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/27.11.15