IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No. 35329 of 2014 (M)

PETITIONER(S)/PETITIONER:

HASSAN.M AGED 43 YEARS
S/O.LATE ABDU, MATHILAKATH HOUSE, POONDAVANAM P O
PATTIKKAD, MALAPPURAM DIST, PIN CODE-679325

BY ADV. SRI.SURAJ.S

RESPONDENT(S)/RESPONDENTS:

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1. THE SOUTH INDIAN BANK LIMITED
PANDIKKAD 16/346-437, HIBA ASIA TOURIST HOME
PERINTHALAMANNA ROAD, PANDIKKAD
MALAPPURAM DIST-676521

2. THE AUTHORIZED OFFICER
THE SOUTH INDIAN BANK LIMITED, REGIONAL OFFICE
KOZHIKODE, HAPPY TOWERS, VAIKOM MUHAMMED BASHEER ROAD
MANACHIRA P O, KOZHIKODE-673001

R1-R2 BY ADV. SRI.K.K.JOHN
BY SRI.ASHISH K.JOHN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 35329 of 2014 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 **A TRUE COPY OF THE 13(2) NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DTD 3/2/2014**

EXHIBIT P2 **A TRUE COPY OF THE TENDER CUN AUCTION SALE NOTICE DTD 17/11/2014 ISSUED BY THE 2ND RESPONDENT**

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

// True copy //

PA to Judge

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 35329 of 2014

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Dated this the 17th day of March, 2015

JUDGMENT

The petitioner, who had availed 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 amount. The petitioner, therefore, approached this Court with the present writ petition, challenging the action taken by the respondent bank. By an interim order dated 26.12.2014, this Court has granted an interim stay of further proceedings pursuant to Ext.P2 sale notice, for a period of two months, on the petitioner remitting a sum of Rs.2,00,000/- within a period of one month. When the petitioner remitted an amount of Rs.1,00,000/- but could not remit the balance amount of Rs.1,00,000/- within the time stipulated, he approached this Court through I.A. No.1173 of 2015 seeking for some more time for making the payment of Rs.1,00,000/-. By an order dated 27.02.2015, the petitioner was given an opportunity to make the balance payment of Rs.1,00,000/- on or before 13.03.2015 as a last chance.

2. When the case was called up today, it was pointed out by the learned counsel for the respondent bank that the petitioner has not made the payment of Rs.1,00,000/- as directed in the interim order dated 27.02.2015, and further, it is the specific case of the respondent bank that the property in question was sold, pursuant to the sale notice, on 23.12.2014 itself, much before the date on which the interim order was passed by this Court. He would, however, submit that the said sale was not confirmed out of deference to the orders of this Court.

Inasmuch as the petitioner has not remitted the amounts that were directed to be remitted by this Court by the interim order referred to above, I am of the view that the petitioner is not entitled to seek the discretionary relief of this Court in these proceedings under Article 226 of the Constitution of India. The writ petition is thus dismissed as not maintainable.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das