IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

WP(C).No. 35197 of 2015 (Y)
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PETITIONER(S) :

REENA P., AGED 42 YEARS,
W/O.SHAJI PLASIUSE, ARANYANTAZHIATHU VEEDU,
KUMBALAM P.O., MULAVANA, KOLLAM- 691 503.

BY ADVS.SRI.SHERRY J. THOMAS
SRI.ARUN ALEX
SRI.M.AJITH (KARICODE)
SRI.N.S.SUBHASH
SRI.R.MOHANA BABU

RESPONDENT(S) :
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1. **THE STATE BANK OF INDIA,**
   REPRESENTED BY BRANCH MANAGER,
   SPECIALISED NRI BRANCH, PMP COMPLEX,
   POLAYATHODE, KOLLAM.

2. **THE AUTHORISED OFFICER,**
   STATE BANK OF INDIA, RASMEC, IIND FLOOR,
   RAVI'S ARCADE, NEAR IRON BRIDGE, KOLLAM- 691 013.

BY ADV. SRI.R.S.KALKURA, S.C, SBT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 35197 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: **TRUE COPY OF THE STATEMENT OF ACCOUNT OF THE PETITIONER AND HER HUSBAND.**

EXHIBIT P2: **TYPED COPY OF THE PHYSICAL POSSESSION NOTICE AFFIXED ON THE HOUSE OF THE PETITIONER.**

EXHIBIT P3: **A TRUE COPY OF THE REQUEST DATED 28.10.2015 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.35197 OF 2015 (Y)

Dated this the 21st day of November, 2015

J U D G M E N T

The petitioner, who stood as a guarantor to a housing loan availed by her husband, 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.P2 is the possession notice issued to the petitioner under the SARFAESI Act. It is stated by the learned Standing counsel for the respondent bank that physical possession has already been taken. 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 her 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's husband, is stated to be Rs.1,76,000/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.1,76,000/- together with accrued interest in three equal and successive monthly installments commencing from 10.12.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against her 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, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.
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> (iii) It is further made clear that on the petitioner paying an amount of Rs.1,76,000/- either within the time granted in this judgment or earlier, the

respondent bank shall restore possession of the secured asset to the petitioner forthwith. The respondent bank shall, however, in the meanwhile, permit the petitioner to take out the movable items from the residential house.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/21/11/15