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. 35198 of 2015 (Y)

PETITIONER(S):

V.SANTHOSH KUMAR,
S/O.VISWANATHAN NAIR, PROPRIETOR,
ESS ESS REXINS, KARTHIKA, MANCHA,
NEDUMANGAD P.O., PIN - 695 541,
THIRUVANANTHAPURAM.

BY ADV. SRI.WILSON URMESE

RESPONDENT(S):

THE AUTHORISED OFFICER (UNDER SARFAESI ACT)/
MANAGER, CANARA BANK, NEDUMANGAD BRANCH,
THIRUVANANTHAPURAM - 695 541.

BY ADV. SRI.PAULY MATHEW MURICKEN, SC

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

msv/

WP(C).No. 35198 of 2015 (Y)
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APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE ORDER DTD.10.4.2015 IN OA.NO.615/2013 OF THE DEBTS RECOVERY TRIBUNAL, ERNAKULAM.

EXT.P2: TRUE COPY OF THE RELEVANT PORTION OF THE PAPER ADVERTISEMENT IN MATHRUBHUMI DAILY DTD.17.10.2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.35198 OF 2015 (Y)

Dated this the 21st day of November, 2015

J U D G M E N T

The petitioner, who had availed of two loans from the respondent bank, a cash credit facility and a housing loan, 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 order passed by the Debts Recovery Tribunal, Ernakulam, in O.A.No.615/2013. 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 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 amount outstanding from the petitioner to the respondent bank, in respect of both the loans, is stated to be Rs.21,88,908/- together with accrued interest and other charges. Accordingly, if the petitioner pays the said amount of Rs.21,88,908/- together with accrued interest and other charges in twelve equal and successive monthly installments commencing from 10.12.2015, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.
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> (ii) It is further 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/21/11/15