IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

WP(C).No. 35260 of 2015 (F)

PETITIONER :

SOMANATHAN
S/O.RAGHAVAN NAIR, AGED 54 YEARS
VENATTUMATTATHIL HOUSE
ALANAD P.O., PIRAVITHANAM, PALAI
KOTTAYAM DISTRICT.

BY ADVS.SRI.THOMSTINE K. AUGUSTINE
SRI.BIJU GEORGE (VADASSERY)
SRI.K.C.THOMAS

RESPONDENT(S) :
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1. KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, KOTTAYAM
REPRESENTED BY ITS AUTHORISED OFFICER
PIN -686 001.

2. THE BRANCH MANAGER,
KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
KOLLAPPALLY, KOTTAYAM DISTRICT
PIN -686 002.

R1 & R2 BY ADV. SRI.SUNIL CYRIAC, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

...2/-

WP(C).No. 35260 of 2015 (F)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1- **TRUE COPY OF THE NOTICE DATED 23-01-2015 ISSUED BY THE 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.35260 of 2015

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Dated this the 25th day of November, 2015

J U D G M E N T

The petitioner, who had availed of three loans and a cash credit 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 notice issued under section 13(2) of 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 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.17,81,175/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.17,81,175/- together with accrued interest in six equal and successive monthly instalments commencing from 20.12.2015, and continues to keep up the regular instalments in the three loans, and complies with the directions of the respondent bank with regard to the continuation of the cash credit facility, 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/25.11.15