IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 35505 of 2014 (K)

PETITIONER:

LAIJU VARGHESE AGED 41 YEARS
S/O.LATE C.J.VARGHESE
RESIDING AT CHERUTHURUTHIL HOUSE, IRINGOLE
PATTAL P.O., PERUMBAVOOR, ERNAKULAM DISTRICT-683 542.

BY ADVS.SRI.SAIJU S.
SRI.P.H.RISHAD

RESPONDENT:

KERALA GRAMIN BANK
REGIONAL OFFICE, ERNAKULAM, DANFOSS ARCADE
II FLOOR, 48/24A-3P, POTTAKUZHY JUNCTION
PERANDOOR ROAD, ERNAKULAM – 682 026
REPRESENTED BY ITS AUTHORISED OFFICER UNDER THE SARFAESI ACT, 2002.

BY ADV. SRI.K.M.ANEESH
BY ADV. SRI.K.SANTHOSH KUMAR (KALIYANAM)
BY ADV. SRI.ADARSH KUMAR
ADV. SRI.DEVAN RAMACHANDRAN STANDING COUNSEL FOR KERALA GRAMIN BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 35505 of 2014 (K)

<u>APPENDIX</u>

PETITIONER(S)' EXHIBITS:

EXT.P1 : THE TRUE COPY OF THE POSSESSION NOTICE DATED 26/9/2014 ISSUED BY THE RESPONDENT BANK TO THE PETITIONER UNDER SECTION 13(4) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002.

RESPONDENT(S)' EXHIBITS : NIL

// TRUE COPY

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.35505 of 2014 (K)

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Dated this the 15th day of January, 2015

JUDGMENT

The petitioner, who had availed of two housing loans of Rs.5,00,000/- and Rs.3,00,000/- respectively, and an Overdraft facility for Rs.5,00,000/- from the respondent Bank in the year 2011, defaulted in re-payment 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', against the petitioner. Ext.P1 is the possession notice issued by the respondent to the petitioner in that regard. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.Saiju S., the learned counsel appearing for the petitioner and Sri.Devan Ramachandran, learned Standing counsel appearing for the respondent.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the sole prayer of the petitioner is to permit him to remit the overdue amount 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 amount outstanding from the petitioner under the Overdraft facility extended to him is stated to be Rs.8,00,000/-. The overdue amount in respect of the housing loans is stated to be Rs.1,98,326/-, together with accrued interest. Accordingly, if the petitioner remits the total amount of Rs.9,98,326/- in eight equal and successive monthly installments commencing from 16.02.2015, and continues to pay the regular monthly installments under the two housing loans as per the original loan schedule, then, the recovery steps initiated against him by the respondent bank shall be kept in abeyance.

ii) It is made clear that, if the petitioner commits a default in respect of any of the installments, he will lose the benefits 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/16/01/