IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).NO. 35545 OF 2014 (P)

PETITIONER(S):

SHOUKATHALI.A.K AGED 34 YEARS
S/O MUHAMMED KUNHI A.P.K, KALLAKOLLY CHEMRAKANAM
THIMIRI, CHERUVATHUR, KASARGOD-671313.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENT(S):

STATE BANK OF TRAVANCORE
REPRESENTED BY THE MANAGER, STATE BANK OF TRAVANCORE
REGIONAL OFFICE, REGION IV, KANNUR-670 002.

R-R1 BY ADV. SRI.T.SETHUMADHAVAN (SR.)
R-R1 BY ADV. SRI.PUSHPARAJAN KODOTH
R-R1 BY ADV. SRI.K.JAYESH MOHANKUMAR,SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 35545 OF 2014 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE DISCHARGE DETAILS WITH RESPECT TO THE LOAN.

EXHIBIT P2: TRUE COPY OF THE NOTICE DATED 12.3.2013.

EXHIBIT P3: TRUE COPY OF THE NOTICE DATED 24.1.2014.

EXHIBIT P4: TRUE COPY OF THE NOTICE DATED 4.12.2014.

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDG

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.35545 of 2014

....

Dated this the 5th day of February, 2015

J U D G M E N T

The petitioner who had availed of 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 amounts. Ext.P3 is the notice under Section 13 (2) of the SARFAESI Act. Ext.P4 is the possession notice. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.Kaleeswaram Raj, the learned counsel for the petitioner and Sri.Jayesh Mohankumar, the learned Standing Counsel appearing on behalf of 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 outstanding amount from the petitioner to the respondent bank, in respect of the loan, is stated to be Rs.4,70,000/- together with accrued interest, although this is disputed by the petitioner. Accordingly, if the petitioner pays the amount due to the respondent bank in six equal and successive monthly instalments commencing from 20.02.2015, the recovery steps initiated against the petitioner 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 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 currently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/