IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WP(C).No. 35361 of 2015 (U)

PETITIONER(S):

ABDUL GAFOOR V.,
S/O.LATE MOHAMMED V., VALLIL HOUSE, WARD NO.XXI,
MUZHUNNAMANNA ROAD, CHETHANAMKURUSSI, ANAMANGAD P.O.,
MALAPPURAM - 679 357 REP. BY HIS POWER OF ATTORNEY
MUHAMMED BASHEER, VALLIL HOUSE, WARD NO.XXI,
CHETHANAMKURUSSI, ANAMANGAD P.O.,
MALAPPURAM - 679 357.

BY ADV. SRI.K.I.SAGEER

RESPONDENT(S):

STATE BANK OF TRAVANCORE,
PERINTHALMANNA BRANCH, MALAPPURAM DISTRICT-679 322,
REP. BY ITS CHIEF MANAGER/AUTHORIZED OFFICER.

BY ADVS. SRI.T.SETHUMADHAVAN (SR.)
SRI. JAYESH MOHAN KUMAR, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 35361 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - **A TRUE COPY OF THE NOTICE DT. 20-03-2015 ISSUED BY THE RESPONDENT TO THE PETITIONER.**

P2 - **A TRUE COPY OF THE NOTICE DT. 22.09.2015 ISSUED BY THE RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.35361 OF 2015 (U)

Dated this the 8th day of December, 2015

J U D G M E N T

The petitioner, who had availed of a term 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.P2 is the possession notice issued by the respondent bank under 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 for the petitioner as also the learned Standing counsel appearing 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 respondent 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, is stated to be Rs.8,15,000/- together with accrued interest as on 27.11.2015. Accordingly, if the petitioner pays the said amount of Rs.8,15,000/- together with accrued interest as on 27.11.2015 in eight equal and successive monthly installments commencing from 28.12.2015, and continues to keep up the regular installment payments as per the original loan schedule, 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/8/12/15