IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

WP(C).No. 35573 of 2015 (V)

PETITIONER(S):

AJITH KUMAR, AGED 51 YEARS,
S/O. MUTHAYYAN, RESIDING AT MANALIYIL VEEDU,
(ALUVILA PUTHEN VEEDU), MULLOOR, VIZHINJAM VILLAGE,
NEYYATTINKARA TALUK, THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.M.RAMASWAMY PILLAI
SMT.PREETHY R. NAIR

RESPONDENT(S):
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1. **TRIVANDRUM DISTRICT CO-OPERATIVE BANK,**
   REPRESENTED BY ITS BRANCH MANAGER, VIZHINJAM BRANCH,
   TRIVANDRUM DISTRICT - 695 001.

2. **THE AUTHORISED OFFICER,**
   THE TRIVANDRUM DISTRICT CO-OPERATIVE BANK HEAD OFFICE,
   FORT, THIRUVANANTHAPURAM - 695 001.

R1 & R2 BY ADV. SRI.T.R.HARIKUMAR, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 35573 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 THE PHOTOCOPY OF THE PASSBOOK.

EXHIBIT P2 THE PHOTOCOPY OF THE RECEIPT FOR RS. 19,000/-DATED 28-09-2015.

EXHIBIT P3 THE PHOTOCOPY OF THE NOTICE DATED 20-11-2015 WITH ENGLISH TRANSLATION.

EXHIBIT P4 THE PHOTOCOPY OF THE ASTROLOGER'S NOTE DATED 23-08-2015 IS GIVEN BY ASTOLOGER SRI A. VENUGOPAL, SHRI SAKTHI JYOTHISHALAYAM ALONG WITH ENGLISH TRANSLATION.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 35573 of 2015
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Dated this the 17th day of December, 2015

JUDGMENT

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 possession notice issued to the petitioner 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 on behalf of the petitioner as also the learned Standing Counsel appearing on behalf of the respondents.

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 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 outstanding amount, in respect of the loan, is stated to be Rs.1,00,800/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,00,800/- together with accrued interest in six equal and successive monthly installments commencing from 05.01.2016, 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 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.

(iii) The respondent bank shall, within a period of two weeks from today, provide the petitioner with an upto-date statement of accounts so as to enable the petitioner to discharge the liability in accordance with the directions of this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /17.12.15