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. 35626 of 2015 (C)

PETITIONER(S):

ALI, THENKULAM HOUSE,
MALAMKKAVU PO, KUDALLUR,
KUMBIDI, PALAKKAD 679 553.

BY ADVS.SRI.DINNY THOMAS
SMT.ROSHNI MANUEL

RESPONDENT(S):

1. HOUSING DEVELOPMENT FINANCE CORPORTION LTD,
HDFC HOUSE, RAVIPURAM JUNCTION, MG ROAD,
KOCHI 682015, REP BY THE MANAGER.

2. BRANCH MANAGER,
HDFC BANK LTD, 1ST FLOOR, VP TOWER,
EDAPPAL 679 576.

3. AUTHORISED OFFICER UNDER THE SARFAESI ACT,
HOUSING DEVLOPMENT FINANCE CORPORATION LTD.,
HDFC HOUSE, RAVIPURAM JUNCTION,
M.G.ROAD, KOCHI-68215.

4. THE UNION OF INDIA,
REPRESETNED BY THE SECRETARY, MINISTRY OF FINANCE,
DEPARTMENT OF FINANCIAL SERVICES,
3RD FLOOR JEEVAN DEEP BUILDING, SANSAD MARG,
NEW DELHI 110001.

R1-3 BY ADVS. SRI.K.K.CHANDRAN PILLAI (SR.)
SRI.ARUN ANTONY
SMT.S.AMBILY
SMT.K.V.SHENU
SRI.T.RAJESH
R4 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

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

PJ

WP(C).No. 35626 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- **TRUE COPY OF THE DEMAND NOTICE ISSUED UNDER S.13(2) OF THE ACT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 35626 of 2015
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Dated this the 25th day of November, 2015

JUDGMENT

The petitioner, who had availed 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.P1 is the notice issued to the petitioner 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 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 overdue amount, in respect of the loan, is stated to be Rs.5,28,106/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.5,28,106/- together with accrued interest in eight equal and successive monthly installments commencing from 15.12.2015, and continuous to keep up the regular installments 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 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /25.11.15