IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 35739 of 2015 (N)

PETITIONER(S):

PARAKKAL JAYAPRAKASH, AGED 30 YEARS,
S/O.KORU, PARAKKAL HOUSE, PATHIRIPADAM,
MALAPPURAM DISTRICT.

BY ADVS.SRI.P.SAMSUDIN
SRI.K.C.ANTONY MATHEW
SRI.JITHIN LUKOSE

RESPONDENT(S):
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1. THE NILAMBUR CO-OPERATIVE BANK LTD.
F.1043, NILAMBUR-679329, MALAPPURAM DISTRICT.

2. THE AUTHORISED OFFICER.
THE NILAMBUR CO-OPERATIVE BANK LTD., F.1043
NILAMBUR-679329 MALAPPURAM DISTRICT.

BY SRI.DEVAPRASANTH.P.J.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 35739 of 2015 (N)

APPENDIX

PETITIONERS' EXHIBITS

P1: TRUE COPY OF THE BANK PASSBOOK

P2: TRUE COPY OF THE RECEIPTS ISSUED BY THE BANK TO THE PETITIONER

P3: TRUE COPY OF THE NOTICE DATED 30/10/15 ISSUED BY THE ADVOCATE COMMISSIONER PPOINTED BY THE CHIEF JUDICIAL MAGISTRATE COURT MANJERI.

RESPONDENTS' EXHIBIT

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.35739 of 2015

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Dated this the 4th day of December, 2015

<u>J U D G M E N T</u>

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 issued by the Advocate Commissioner. 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.1,90,000/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.1,90,000/- together with accrued interest in ten equal and successive monthly installments commencing from 21.12.2015, 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.

(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

mns/04.12.15