IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

WP(C).No. 35997 of 2015 (Y)

PETITIONER:

ABBASS, NIDUVANABAIL HOUSE,
KUMBADAJE P.O., KASARAGOD.

BY ADV. SRI.SAJEEV KUMAR K.GOPAL

RESPONDENTS:

1. THE KASARAGOD CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD.NO.F.F 113, KASARAGODE - 671 121.

2. THE SECRETARY, KASARAGOD CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD.NO.F.F 113, KASARAGODE - 671 121.

3. THE SPECIAL OFFICER, KASARAGOD CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD.NO.F.F 113, KASARAGODE - 671 121.

BY SRI.PUSHPARAJAN KODOTH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 35997/2015

PETITIONER'S EXHIBITS:

EXT. P1 TRUE COPY OF THE PROCLAMATION OF SALE OF IMMOVABLE PROPERTY DATED 21.10.2014

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.35997 of 2015 Y

Dated this the 27th day of November, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondent Bank, apart from perusing the record.

2. The petitioner, a borrower from the respondent Bank, assailed Exhibit P1 notice directing payment of Rs.7,34,863/- .

3. The learned counsel for the petitioner has submitted that the petitioner, despite his best efforts, could not repay the loan amount owing to stringent financial conditions faced by him. Accordingly, the petitioner has sought the indulgence of this Court for a direction to the respondent Bank to receive from the petitioner the outstanding loan amount in instalments.

4. Before appreciating the submissions of the learned counsel for the respondent Bank, I may have to observe that expansive as the jurisdiction of Article 226 of the Constitution of India is, I am afraid, it does not go to the extent of interdicting the contractual terms, especially in a financial transaction involving public money, so as to compel the respondent Bank to agree for instalments.

5. Be that as it may, evidently being fully aware of the difficulties involved in realising the loan amounts through the process of invidious sale of the property, the learned counsel for the respondent Bank, to his credit, evidently on instructions, has submitted that the respondent Bank is willing to collect the outstanding loan amount in six monthly instalments.

In the facts and circumstances, essentially based on the concession made by the learned counsel for the respondent Bank, this Court disposes of the writ petition with a direction to the petitioner to pay the entire outstanding loan amount in six equal monthly instalments starting from 01.01.2016. Needless to observe that, if the petitioner fails to deposit the said amount within the stipulated time, the respondent Bank is at liberty to proceed further without recourse to this Court.

Dama Seshadri Naidu, Judge

tkv