IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

WP(C).No. 36306 of 2015 (K)

PETITIONER :

IBRAHIM KUTTY K.T., AGED 58 YEARS,
S/O. HAMZA, RESIDING AT KURUPPANTHODIYIL HOUSE,
KIZHAYOOR POST, PATTAMBI, PALAKKAD DISTRICT679 303.

BY ADVS.SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN
SRI.K.ABDUL HAKEEM

RESPONDENTS :

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1. THE AUTHORISED OFFICER,
M/S. SUNDARAM BNP PARIBAS HOME FINANCE LIMITED
(FORMERLY KNOWN AS SUNDARAM HOME FINANCE LIMITED)
SUNDARAM HOUSE, 46, WHITES ROAD,CHENNAI -600014.

2. M/S. SUNDARAM BNP PARIBAS HOME FINANCE LIMITED,
(FORMERLY KNOWN AS SUNDARAM HOME FINANCE LIMITED)
BRANCH OFFICE, MANJERI, MALAPPURAM - 676 121
REPRESENTED BY ITS BRANCH MANAGER.

BY SRI.VARGHESE C.KURIAKOSE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 36306 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: **TRUE COPY OF THE CMP NO.4500/2015 PENDING BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.36306 of 2015

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Dated this the 18th day of December 2015

JUDGMENT

The petitioner, who along with his wife, son and daughter-in-law had availed a housing loan from the respondent company, defaulted in repayment of the same. Consequently, the respondent company 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 copy of the application filed before the Magistrate, under Section 14 of the SARFAESI Act. In the writ petition, the petitioner impugns the steps initiated by the respondent company 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 company 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.4,62,979/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.4,62,979/- together with accrued interest in ten equal and successive monthly installments commencing from 05.01.2016, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against him by the respondent company 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 company will be free to continue the recovery proceedings against him from the stage at which they presently stand.

(iii)The respondent company shall furnish the petitioner with an up-to-date statement of the dues position, within 10 days from today, so as to enable the petitioner to effect repayment as per the directions in this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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