IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 14TH DAY OF DECEMBER 2015/23RD AGRAHAYANA, 1937

WP(C).No. 36357 of 2015 (T)

PETITIONER:

BOBAN AGED 44 YEARS
S/O NALINAKSHAN, AUTO DRIVER, RESIDING AT TC.43/1329
BABY BHAVAN, MUTTATHARA, THIRUVANANTHAPURAM DISTRICT.

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

RESPONDENTS:
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1. THE TRIVANDRUM DISTRICT CO-OPERATIVE BANK
FORT MAIN BRANCH
TRIVANDRUM DISTRICT-695001 REPRESENTED BY
AUTHORISED OFFICER.

2. THE AUTHORISED OFFICER
THE TRIVANDRUM DISTRICT CO-OPERATIVE BANK HEAD OFFICE
FORT, THIRUVANANTHAPURAM-695001.

BY SRI.T.R.HARIKUMAR, SC, THIRUVANANTHAPURAM DIST.CO.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 36357 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: THE PHOTOCOPY OF NOTICE UNDER SEC.13(4) OF THE SARFAESI ACT WITH ENGLISH TRANSLATION.

EXHIBIT P2: THE PHOTOCOPY OF THE MAHAZAR DATED 23.11.2015 AND ITS ENGLISH TRANSLATION PREPARED BY THE AUTHORISED OFFICER.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.A.TO JUDGE

ANU SIVARAMAN, J.

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W.P.(C).No.36357 of 2015

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Dated this the 14th 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.P1 is the copy of the notice issued to the petitioner under Section 13(4) of the SARFAESI Act. The learned counsel for the petitioner submits that the term of the loan was till 23.03.2016 and therefore he may given a chance to pay off the amounts in arrears in installments.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing counsel appearing for the first respondent. It is submitted that the total amount due under the loan is Rs.1,23,000/- (Rupees one lakh twenty three thousand only).

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I am of the opinion that this is a fit case where the petitioner is to be permitted to remit the balance amounts outstanding to the 1st respondent bank in installments. Therefore, this writ petition is disposed of with the following directions:-

(i) The total amount outstanding from the petitioner to the respondent bank, as of today, is stated to be Rs.1,23,000/-. Accordingly, if the petitioner pays the said amount of Rs.1,23,000/- together with accrued interest in twelve equal and successive monthly installments commencing from 15.01.2016, then the further proceedings initiated against him by the 1st respondent bank shall be kept in abeyance.

(ii) It is further made clear that if the petitioner commits two consecutive defaults in respect of payment of the installments, he will lose the benefit of this judgment and the 1st respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

The respondent shall furnish to the petitioner an up-to-date statement so as to enable the petitioner to discharge the liability.

Anu Sivaraman, Judge

sj