IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WP(C).No. 36451 of 2015 ()

PETITIONER :

AJESH ASOK, AGED 30 YEARS,
S/O.ASHOKAN.G, 'AJEESH BHAVAN', KOTTOORKUNNU,
ATTIPARA, KULATHOOR, THIRUVANANTHAPURAM.

BY ADVS.SRI.THIRUMALA P.K.MANI
SRI.D. DIPU

RESPONDENTS :

THE AUTHORIZED OFFICER,
M/S. INDUSIND BANK LIMITED, RAMA BHAVAN,
TOLL JN EDAPALLY, KOCHI
ITS BRANCH AT THIRUVANANTHAPURAM-695001.

BY SRI.G.HARIHARAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 36451 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

P1: TRUE COPY OF THE LETTER DATED 14.06.2014 ISSUED BY RESPONDENT CONTAINING THE DETAILS OF THE LOAN AND THE SCHEDULE OF THE PAYMENT OF LOAN.

P2: TRUE COPY OF THE STATEMENT OF ACCOUNT OF THE LOAN AVAILED BY THE PETITIONER ISSUED BY THE RESPONDENT DATED 30.06.2015.

P3: TRUE COPY OF THE WARRANT OF AUTHORIZING COMMISSIONER TO TAKE POSSESSION OF THE AUTO RICKSHAW DATED 16.10.2015.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.
==
W.P.(C). No. 36451 of 2015
===
Dated this the 2nd day of December, 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.P3 is the notice issued by the Advocate Commissioner to the petitioner under 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.48,935/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.48,935/- together with accrued interest in five equal and successive monthly installments commencing from 20.12.2015, and continues 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.

(iii) I make it clear that, on the petitioner paying the amount of Rs,48,935/- either in the manner stipulated above or earlier, the respondent shall handover the possession of secured asset to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /2.12.15