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. 36456 of 2015 (F)

PETITIONER:

ARUN R.NAIR, AGED 34 YEARS,
S/O.RAMACHANDRAN NAIR, ONATTU HOUSE,
MUDIYOOR KARA, GANDHINAGAR.P.O,
KOTTAYAM-686 008.

BY ADVS.SRI.E.M.MURUGAN
SRI.P.RAKESH (VAIKOM)

RESPONDENT:

THE BRANCH MANAGER/AUTHORISED OFFICER,
KOTTAYAM CO-OPERATIVE URBAN BANK LTD, 421,
HO, THIRUNAKKARA, KOTTAYAM-686 001.

BY SRI.SURIN GEORGE IYPE,SC,CO.URB.BANK

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

sts

WP(C).No. 36456 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 TRUE PHOTOCOPY OF THE NOTICE UNDER SEC 13 (2) DATED 06.07.2015

P2 TRUE PHOTOCOPY OF THE REPLY SENT BY PETITIONER

P3 TRUE PHOTOCOPY OF THE REPLY DATED 05.09.2015

P4 TRUE PHOTOCOPY OF NOTICE DATED 16.11.2015 OF ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS: NIL
--

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

==

W.P.(C). No. 36456 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.P4 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 outstanding amount, in respect of the loan, is stated to be Rs.18,55,000/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.18,55,000/- together with accrued interest in twelve equal and successive monthly installments commencing from 20.12.2015, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /2.12.15