IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WP(C).No. 37012 of 2015 (B)

PETITIONER(S):

RENJU VARGHESE, AGED 30 YEARS,
S/O.A.GHEEVARGHESE, PROPRIETOR, M/S.GIGA BYTES,
AIKARAKUDIYIL HOUSE, ARAKKAPADY, VENGOLA P.O.,
PERUMBAVOOR, ERNAKULAM DISTRICT, PIN-683 554.

BY ADVS.SRI.C.A.MAJEED
SRI.K.H.ASIF
SMT.RAAGA R.RAMALAKSHMI
SRI.K.J.SHARATH KUMAR

RESPONDENT(S):

BANK OF INDIA,
DARSHANAM CHAMBERS, PERUMBAVOOR BRANCH, M.C.ROAD,
PERUMBAVOOR, ERNAKULAM DISTRICT,
REPRESENTED BY THE CHIEF MANAGER.

BY ADV. SRI.C.A.JOY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 37012 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1. APHOTOCOPY OF THE NOTICE DATED 9/10/2015 ISSUED BY THE RESPONDENT BANK IN RESPECT OF THE BUSINESS LOAN.

EXT.P2. APHOTOCOPY OF THE NOTICE DATED 9/10/2015 ISSUED BY THE RESPONDENT BANK IN RESPECT OF THE VEHICLE LOAN.

EXT.P3. APHOTOCOPY OF THE NOTICE DATED 9/10/2015 ISSUED BY THE RESPONDENT BANK IN NEWS PAPER.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

..

W.P.(C).No.37012 of 2015

..

Dated this the 8th day of December, 2015

<u>J U D G M E N T</u>

The petitioner, who had availed of a cash credit facility and also a vehicle 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 under Section 13(2) of 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 for the petitioner as also the learned Standing counsel appearing for the respondent bank.

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 respondent 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 amount required for closure of the cash credit facility and for regularising the vehicle loan is Rs.25,07,901/- (Rs.23,87,997/- +Rs.1,19,904). Accordingly, if the petitioner pays the said amount of Rs.25,07,901/- together with accrued interest in 12 equal and successive monthly installments commencing from 28.12.2015, and continues to keep up the regular installment payments as per the original loan schedule in the vehicle loan, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is further 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/08.12.15