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. 37171 of 2015 (V)

PETITIONER :

RATHEESH KUMAR V., AGED 42 YEARS,
S/O. GOVINDAN NAMBIAR, CHERUCHUNDAKKAD HOUSE,
P.O. KOLARI, (VIA), MATTANNUR, KANNUR DISTRICT.

BY ADV. SMT.K.V.BHADRA KUMARI

RESPONDENTS :
----

1. THE AUTHORISED OFFICER,
UNION BANK OF INDIA, REGIONAL OFFICE,
KOZHIKODE, 1ST FLOOR, KSHB COMPLEX, VIKAS NAGAR,
EAST HILL ROAD, KOZHIKODE - 673006.

2. BRANCH MANAGER, UNION BANK OF INDIA,
MATTANNUR BRANCH, KEVEES BUILDING,
T.C. ROAD, P.O., MATTANNUR, KANNUR DISTRICT-670702.

BY SRI.A.S.P.KURUP, SC, UBI

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

bp

WP(C).No. 37171 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY OF THE NOTICE ISSUED U/SEC.13(2) BY THE R1 TO THE PETITIONER ALONG WITH CO-APPLICANT.

P2: COPY OF THE ORDER DT 7/9/2015 IN CMP. NO. 3601/2015 OF C.J.M. COURT, THALASSERY.

P3: COPY OF THE NOTICE ISSUED BY THE ADV. COMMISSIONER TO THE PETITIONER DT 19/9/2015.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

===

W.P.(C). No. 37171 of 2015

==

Dated this the 8th day of December, 2015

JUDGMENT

The petitioner, who had availed a trade loan and also a housing 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.P2 is the order passed by the Chief Judicial Magistrate. 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 both the loans, is stated to be Rs.1,20,000/- (Rs.80,000/- + Rs.40,000/-) together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,20,000/- together with accrued interest in ten equal and successive monthly installments commencing from 28.12.2015, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /8.12.15