IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

WP(C).NO. 37248 OF 2015 (E)

PETITIONER(S)/PETITIONER:

A.M.MOHAMMED AGED 70 YEARS
S/O. MEETHIAN, AREEKODATH HOUSE, ALANGADU P.O.
ERNAKULAM DISTRICT-683511.

BY ADVS.SRI.JOHN JOSEPH(ROY)
SRI.M.GEORGE THOMAS
SMT.MEDONA LOPEZ

RESPONDENT(S)/RESPONDENT:

CORPORATION BANK
REPRESENTED BY THE AUTHORISED OFFICER, ALUVA BRANCH
GROUND FLOOR, PUTHUVELIL BUILDING, N.H.BYE PASS ROAD
ALUVA-683101.

BY ADV. SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 37248 OF 2015 (E)
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APPENDIX

PETITIONER(S)' EXHIBITS
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P1:-TRUE COPY OF THE POSSESSION NOTICE DTD 30/10/2015 OF RESPONDENT SHOWING THE OUTSTANDING AMOUNT

P2:_TRUE COPY OF THE STATEMENT OF ACCOUNT OF THE WORKING CAPITAL LOAN SHOWING THE OUTSTANDING AMOUNT

P3:-TRUE COPY OF THE STATEMENT OF ACCOUNT OF THE VEHICLE LOAN SHOWING THE OUTSTANDING AMOUNT

P4:-TRUE COPY OF THE STATEMENT OF ACCOUNT OF THE TERM LOAN SHOWING THE OUTSTANDING AMOUNT

RESPONDENT(S)' EXHIBITS:NIL
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//TRUE COPY//

P.A to JUDGE

**A.K.JAYASANKARAN NAMBIAR, J.**

**.......................................................**

**W.P.(C).No.37248 of 2015**

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**Dated this the 23rd day of December, 2015**

## J U D G M E N T

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 possession notice. It is stated that pursuant to Ext.P1 notice the bank has also taken possession of the secured asset. 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 loan availed by the petitioner,as on today is stated to be Rs.34,22,761/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.34,22,761/- together with accrued interest in ten equal and successive monthly installments commencing from 05.01.2016, and continues to keep up the regular installments as per the original loan schedule, then further proceedings for recovery 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) It is made clear that on the petitioner paying Rs.34,22,761/- together with accrued interest either in terms of the instalments granted in this judgment or earlier the respondent bank shall handover possession of the secured asset to the petitioner.

(iv) The respondent bank shall, within a period of ten days from today, provide the petitioner with an up-to-date statement of accounts so as to enable the petitioner to discharge the liability in accordance with the directions of this judgment.

**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

mns/23.12.15