IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

WP(C).No. 37323 of 2015 (M)

PETITIONER(S):

REMYA K. PRASAD, AGED 35 YEARS,
W/O.PRAMOD PILLAI, KOLLAMPARAMBIL,
KOROPPADA P.O., KOTTAYAM.

BY ADVS.SRI.K.C.SANTHOSHKUMAR
SMT.K.K.CHANDRALEKHA
SRI.C.KRISHNAN(KANNUR)
SMT.K.S.SUDHA
SRI.V.DEVADETH
SMT.C.LEENA

RESPONDENT(S):
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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
FINANCE DEPARTMENT, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM-695001.

2. THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
DISTRICT CO-OPERATIVE BANK BUILDING,
P.B.NO.140, PAMPADY, KOTTAYAM-686001,
REPRESENTED BY ITS BRANCH MANAGER, PAMPADI BRANCH.

3. THE CHIEF MANAGER (ADVANCE)
(AUTHORISED OFFICER UNDER SARFAESI ACT, 2002),
THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
DISTRICT CO-OPERATIVE BANK BUILDING,
P.B.NO.140, PAMPADY, KOTTAYAM-686001.

R1 BY GOVERNMENT PLEADER SRI.R.RENJITH
R BY SRI.SUNIL CYRIAC, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 37323 of 2015 (M)
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APPENDIX

PETITIONERS' EXHIBITS

P1: **COPY OF THE TITLE DEED BEARING NO.604/11 OF SRO, PAMPADI**

P2: **COPY OF THE NOTICE DATED 16/11/15**

P3: **COPY OF THE REPRESENTATION DATED 4/12/15 SUBMITTED BY THE PETITIONER BEFORE THE R2**

P4: **COPY OF THE POSTAL RECEIPT EVIDENCING THE SENDING OF EXT.P3 REQUEST TO THE BRANCH MANAGER.**

P5: **COPY OF THE POSTAL RECEIPT EVIDENCING THE SENDING OF EXT.P3 REQUEST TO THE AUTHORISED OFFICER.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.37323 of 2015

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Dated this the 18th 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.P2 is the sale notice issued 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 her 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.11,08,728/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.11,08,728/- together with accrued interest in twelve equal and successive monthly installments commencing from 05.01.2016, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against her 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, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

(iii)The respondent bank shall furnish the petitioner with an up-to-date statement of the dues position, within 10 days from today, so as to enable the petitioner to effect repayment as per the directions in this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/