IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

WP(C).No. 37465 of 2015 (G)

PETITIONER(S):

MUHAMMED C.M, AGED 62 YEARS,
S/O.MUSTAFA,
RESIDING AT CHERUVALLIKUDIYIL, EDAVOOR P.O.
PERUMBAVOOR, ERNAKULAMPIN: 683 544.

BY ADV. SRI.SAIJU S.

RESPONDENT(S):

STATE BANK OF INDIA,
PERUMBAVOOR BRANCH,
CHEMMANAM BUILDINGS, P.P.ROAD,
PERUMBAVOOR-683543,
REPRESENTED BY ITS AUTHORISED OFFICER
UNDER THE SARFAESI ACT, 2002.

BY SRI.R.S.KALKURA, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 37465 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: THE TRUE COPY OF THE NOTICE DTD. 23/11/2015 ISSUED BY THE ADVOCATE COMMISSIONER APPOINTED VIDE PROCEEDINGS IN CRL.M.P NO.3837/2015 PENDING WITH THE CHIEF JUDICIAL MAGISTRATE'S COURT, ERNAKULAM.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 37465 of 2015

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Dated this the 10th day of December, 2015

JUDGMENT

The petitioner, who had availed of a housing loan, as also a term 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 notice issued to the petitioner by the Advocate Commissioner 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 overdue amount, in respect of the housing loan, is stated to be Rs.9,00,000/- together with accrued interest. Similarly, the total outstanding amount in respect of the term loan is stated to be Rs.4,62,989/-. Accordingly, if the petitioner remits an amount of Rs.13,62,989/- together with accrued interest in twelve equal and successive monthly installments commencing from 28.12.2015, and continues to keep up the regular installments in respect of the housing loan account, 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 /10.12.15