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. 37488 of 2015 (I)

PETITIONER(S):

RAJAN, AGED 57 YEARS,
S/O. LATE PAZHANI, PARATHAKKAD, 497,
CHITTILENCHERRY P.O., ALATHUR,
PALAKKAD - 678 704.

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL).

RESPONDENT(S):
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1. JOINT REGISTRAR (GENERAL),
CO-OPERATIVE SOCIETIES,
OFFICE OF THE JOINT REGISTRAR FOR
CO-OPERATIVE SOCIETIES, PALAKKAD - 678 001.

2. THE ASSISTANT REGISTRAR (GENERAL),
CO-OPERATIVE SOCIETIES,
OFFICE OF THE ASSISTANT REGISTRAR FOR
CO-OPERATIVE SOCIETIES, PALAKKAD-678 001.

3. THE PALAKKAD DISTRICT CO-OPERATIVE BANK LTD.,
P.B. NO. 21, H.P.O ROAD, SULTHANPET, PALAKKAD - 678 001,
REPRESENTED BY ITS AUTHORISED OFFICER.

R1 & R2 BY GOVT. PLEADER SRI.R. RANJITH.
R3 BY ADV. SRI.M.SASINDRAN, SC.

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

rs.

WP(C).No. 37488 of 2015 (I)

APPENDIX

PETITIONER'S EXHIBITS:-

P1- TRUE COPY OF THE COMMUNITY CERTIFICATE DATED 06/10/2015 ISSUED FROM THE ALATHUR TALUK OFFICE.

P2- TRUE COPY OF THE INCOME CERTIFICATE DATED 03/10/2015 ISSUED FROM THE OFFICE OF THE MELARKKADU VILLAGE OFFICE.

P3- TRUE COPY OF THE ACKNOWLEDGMENT CARD ISSUED FROM THE DEPARTMENT OF POSTS INDIA.

P4- TRUE COPY OF THE NOTICE DATED 07/09/2015 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.37488 of 2015

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Dated this the 18th day of December 2015

JUDGMENT

The petitioner, who had availed a loan from the 3rd 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.P4 is the notice issued to the petitioner 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 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 outstanding amount, in respect of the loan, is stated to be Rs.1,32,684/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,32,684/- together with accrued interest from 10.12.2015, in eight equal and successive monthly installments commencing from 05.01.2016, 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.

(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/