**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937**

**WP(C).No. 37607 of 2015 (A)**
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**PETITIONER:**
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**SRI. SUDARSANADAS D, AGED 63 YEARS,**
**S/O DAVID, THEVERPAZHINJI HOUSE,**
**KARUMON, NEMOM VILLAGE, ESTATE P.O.,**
**THIRUVANANTHAPURAM-695518.**

**BY ADVS.SRI.N.SUKUMARAN PANICKER**
**SMT.KEERTHI SOLOMON**

**RESPONDENT(S):**
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1. **THE MANAGER/AUTHORISED OFFICER,**
   **DISTRICT CO-OPERATIVE BANK, FORT P.O.,**
   **THIRUVANANTHAPURAM-695001.**

2. **THE MANAGER,**
   **(BRANCH OFFICE MALAYINKIZH),**
   **DISTRICT CO-OPERATIVE BANK,**
   **THIRUVANANTHAPURAM-695 501.**

3. **THE VILLAGE OFFICER,**
   **KULATHUMMAL VILLAGE OFFICE,**
   **THIRUVANANTHAPURAM DISTRICT-695572.**

**R1 & R2 BY ADV. SRI.T.R.HARIKUMAR, SC**
**R3 BY GOVERNMENT PLEADER SRI.R.RANJITH**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**mbr/**

**WP(C).No. 37607 of 2015 (A)**
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**APPENDIX**

**PETITIONER(S)' EXHIBITS:**
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**EXHIBIT P1:** **A TRUE COPY OF THE DETAILS OF THE PASS BOOK OF THE PETITIONER IE; NO. CSN 898 ISSUED FROM DISTRICT CO-OPERATIVE BANK, MALAYINKIZH BRANCH.**

**EXHIBIT P2:** **A TRUE COPY OF THE POSSESSION NOTICE DATED 6.10.2015 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.**

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

**P.S. TO JUDGE**

**mbr/**

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

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**W.P.(C) No.37607 of 2015**

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Dated this the 17th day of December 2015

**<u>JUDGMENT</u>**

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 possession notice issued to the petitioner by the respondent bank. 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 loan, is stated to be Rs.4,53,000/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.4,53,000/- together with accrued interest and other charges in ten 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 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 discharge his liability, in accordance with the directions in this judgment.

Sd/-
**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

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