IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

WP(C).No. 37835 of 2015 (D)

PETITIONER(S):

SUDHAKARA KURUP.D,
S/O.DIVAKARA KURUP, PORUNEL MALOOTU VEEDU,
KATTAYIL, ODANAVATTOM P.O., KOTTARAKKARA TALUK,
KOLLAM.

BY ADVS.SRI.K.SIJU
SMT.RENY ANTO

RESPONDENT(S) :
----

1. **THE BRANCH MANAGER,**
   THE CO-OPERATIVE URBAN BANK LTD.NO.1909,
   KOTTARAKKARA, P.K.NO.12, KOTTARAKKARA, KOLLAM- 691 406.

2. **THE AUTHORIZED OFFICER,**
   THE CO-OPERATIVE URBAN BANK LTD.NO.1909,
   KOTTARAKKARA, P.K.NO.12, KOTTARAKKARA, KOLLAM- 691 406.

BY ADV. SMT.DEEPA.V, S.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 37835 of 2015 (D)
--

APPENDIX

PETITIONER(S)' EXHIBITS :
--

EXHIBIT P1: **THE COPY OF RECEIPT OF REMITTANCE OF RS.1,30,000/- TOWARDS THE BANK DATED 15.09.2015.**

EXHIBIT P2: **THE COPY OF NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 05.12.2015.**

RESPONDENT(S)' EXHIBITS :
--

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.
==
W.P.(C). No. 37835 of 2015
==
Dated this the 15th day of December, 2015

JUDGMENT

The petitioner, who had availed of a housing 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 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 loan, is stated to be Rs.2,35,000/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.2,35,000/- together with accrued interest in eight equal and successive monthly installments commencing from 5.01.2016, and continues to keep up the regular installments 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /15.12.15