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. 38313 of 2015 (L)

PETITIONER :

PRAKASAN K.V., AGED 45 YEARS,
KALLINGAL HOUSE, PARANNUR,
CHOONDAL, THRISSUR - 680502.

BY ADV. SMT.VIJAYAKUMARI

RESPONDENT :

AUTHORIZED OFFICER,
DEWAN HOUSING FINANCE CORPORATION LTD.,
GROUND FLOOR, KMM BUILDING, DOOR NO. 32/2383-D,
PALARIVATTOM, KOCHI - 682025.

BY SRI.P.PAULOCHAN ANTONY

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

bp

<u>WP(C).No. 38313 of 2015 (L)</u>

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY OF BANK STATEMENT DT ISSUED BY THE RESPONDENT 31/3/2015.

P2: COPY OF SEC.13(2) NOTICE DT 27/7/2015.

P3: COPY OF RECEIPT DT 31/7/2015 ISSUED BY THE BANK.

P4: COPY OF LETTER DT 9/10/2015 ISSUED BY THE BANK.

P5: COPY OF POSSESSION HANDOVER NOTICE DT 11/12/215.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.38313 of 2015

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Dated this the 17th day of December, 2015

J U D G M E N T

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.P5 is the possession notice. 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 loan availed by the petitioner, is stated to be Rs.4,47,512/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.4,47,512/- together with accrued interest in six equal and successive monthly installments commencing from 05.01.2016, 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.

(iii) The respondent bank shall, within a period of two weeks from today, provide the petitioner with an up-to-date statement of accounts so as to enable the petitioner to discharge the liability in accordance with the directions of this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/17.12.15