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. 38361 of 2015 (U)

PETITIONER(S):

REJI M.P., S/O. POULOSE,
AGED 41 YEARS, FLAT NO.10-C (10TH FLOOR),
ASSET HOMES APARTMENTS (CITY BAY), CHATHARI,
TRIPUNITHURA, ERNAKULAM DISTRICT-682 301.

BY ADVS.SMT.M.R.REENA,
SRIP.S.SUJETH.

RESPONDENT(S):
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1. THE BRANCH MANAGER, VIJAYA BANK,
   THRIPPUNITHURA BRANCH, HOSPITAL ROAD,
   THRIPPUNITHURA, ERNAKULAM DISTRICT-682 301.

2. THE AUTHORIZED OFFICER/CHIEF MANAGER,
   VIJAYA BANK, REGIONAL OFFICE, KOCHI-682 016.

BY ADV. SMT.LATHA ANAND, SC.

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

rs.

WP(C).No. 38361 of 2015 (U)

APPENDIX

PETITIONER'S EXHIBITS:-

P1 : A COPY OF THE JUDGMENT IN WP(C).NO.23369/2013(U) DTD. 26.09.2013.

P2 : A COPY OF THE SANCTION LETTER ISSUED BY THE RESPONDENTS DTD. 27.03.2015.

P3 : A COPY OF THE REQUEST LETTER GIVEN BY THE PETITIONER DTD.12.10.2015.

P4 : A COPY OF THE DEMAND NOTICE DTD. 16.10.2015.

P5 : A COPY OF REPRESENTATION GIVEN TO THE BRANCH MANAGER DTD. 20.11.2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.38361 of 2015

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Dated this the 17th day of December 2015

JUDGMENT

The petitioner, who had availed an over draft facility 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.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 petitioners 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 petitioners 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 petitioners, I dispose the writ petition with the following directions:-

(i) The total outstanding amount, in respect of the loan as on 30.09.2015, is stated to be Rs.1,08,30,665/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,08,30,665/- together with accrued interest from 30.09.2015, in fifteen 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 petitioners commit 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/