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. 38421 of 2015 (C)

PETITIONER(S):

PRABHAKARAN E.P., AGED 68 YEARS,
S/O.LATE KUMARAN, ELAVAMAPOYIL THAZHAM HOUSE,
KANNAMKARA AMSOM DESOM, VIA CHELANNUR, P.O.KANNAMKARA
KOZHIKODE DISTRICT.

BY ADVS.SRI.K.M.FIROZ
SMT.M.SHAJNA
SRI.S.KANNAN
SMT.UMMUL FIDA

RESPONDENT(S):

THE KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, KALLAI ROAD P.O., KOZHIKODE-673002,
REPRESENTED BY ITS AUTHORISED OFFICER.

BY SRI.R.SUDHISH, SC

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

PJ

WP(C).No. 38421 of 2015 (C)

APPENDIX

PETITIONERS' EXHIBITS

EXT.P1: **A TRUE COPY OF THE NOTICE OF INSPECTION DTD.4/12/15 ISSUED BY THE ADVOCATE COMMISSIONER APPOINTED IN CMP.2120 OF 2015 BY THE CHIEF JUDICIAL MAGISTRATE COURT, PROPOSING TO TAKE PHYSICAL POSSESION OF THE PETITIONER'S PROPERTY ON 20/12/15.**

RESPONDENTS' EXHIBIT

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 38421 of 2015
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Dated this the 17th day of December, 2015

JUDGMENT

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.P1 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 amount outstanding from the petitioner is stated to be Rs.7,83,176/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.7,83,176/- together with accrued interest in twelve 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, within ten days from today, provide the petitioner with an upto-date statement of accounts so as to enable the petitioner to discharge the liability in accordance with the directions of this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /17.12.15