IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(C).No. 39018 of 2015 (B)

PETITIONER :

SYED ABU THAHIR, AGED 47 YEARS,
S/O.V.O.PONNATHU RAWTHER,
HISHA COTTAGE (HAROON MANZIL),
ROSAPOOKANDUM, KUMILY, IDUKKI.

BY ADVS.SRI.T.A.UNNIKRISHNAN
SRI.K.K.AKHIL

RESPONDENT :

STATE BANK OF TRAVANCORE LTD.,
KUMILY BRANCH, IDUKKI,
REPRESENTED BY ITS CHIEF MANAGER AND AUTHORIZED OFFICER,
PIN-685 509

BY SRI.SANTHOSH MATHEW,SC
SRI.SATHISH NINAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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<u>WP(C).NO.39018/2015</u>

<u>APPENDIX</u>

<u>PETITIONER'S EXHIBITS</u>:

P1 COPY OF THE ORDER DATED 20/5/2015 IN C.M.P.NO.2157/2015 OF THE CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 39018 of 2015

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Dated this the 22nd day of December, 2015

JUDGMENT

The petitioner, who had availed of a housing loan as also a cash credit 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.P1 is the order of the Chief Judicial Magistrate. 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 amount required for regularising the housing loan account and closing the Cash Credit facility together comes to Rs.11,12,084/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.11,12,084/- 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 in the housing loan account, 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.

(iv) On the petitioner paying the amounts required for regularisation of the housing loan account either within the time granted in this judgment or earlier, the respondent bank shall return possession of the secured asset to the petitioner.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

das /22.12.15