IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

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

WP(C).No. 39088 of 2015 (I)

PETITIONER:

SUBRAMANIAN C., AGED 40 YEARS,
S/O. VELAYUDHAN, CHOORAPRA HOUSE,
MELE KUNIPALA, BHOODANAM P.O.,
MALAPPURAM DISTRICT.

BY ADV. SRI.SUNIL KUMAR A.G

RESPONDENTS:
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1. THE NILAMBUR CO-OPERATIVE URBAN BANK LTD.,
   F.1043, NILAMBUR, MALAPPURAM DISTRICT,
   REPRESENTED BY ITS DEPUTY GENERAL MANAGER - 679 229.

2. THE AUTHORISED OFFICER,
   THE NILAMBUR CO-OPERATIVE URBAN BANK LTD.,
   F.1043, NILAMBUR, MALAPPURAM DISTRICT - 679 229.

R BY SRI.DEVAPRASANTH.P.J.

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

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 39088 of 2015 (I)

Dated this the 22nd day of December, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondent Bank, apart from perusing the record.

2. The petitioner, a borrower from the first respondent Bank, seeks a direction to the respondents to refrain from taking physical possession of the unsurveyed property having extent of 12.50 cents of Edakkara Village, Nilambur Taluk, Malappuram District.

3. The learned counsel for the petitioner has submitted that the petitioner, despite his best efforts, could not repay the loan amount owing to stringent financial conditions faced by him. Accordingly, the petitioner has sought the indulgence of this Court for a direction to the respondent Bank to receive from the petitioner the outstanding loan amount in instalments.

4. Before appreciating the submissions of the learned counsel for the first respondent Bank, I may have to observe that expansive as the jurisdiction of Article 226 of the Constitution of India is, I am afraid, it does not go to the extent of interdicting the contractual

terms, especially in a financial transaction involving public money, so as to compel the respondent Bank to agree for instalments.

5. Be that as it may, evidently being fully aware of the difficulties involved in realising the loan amounts through the process of invidious sale of the property, the learned counsel for the first respondent, to his credit, evidently on instructions, has submitted that if the petitioner continues to pay and clears of the loan amount in six monthly instalments, the respondent Bank will not proceed further in the matter.

In the facts and circumstances, essentially based on the concession made by the learned counsel for the respondent Bank, this Court disposes of the writ petition with a direction to the petitioner to pay the entire outstanding loan amount in six equal monthly instalments starting from 01.01.2016. Needless to observe that, if the petitioner fails to deposit the said amount within the stipulated time, the respondent Bank is at liberty to proceed further without recourse to this Court.

sd/- DAMA SESHADRI NAIDU, JUDGE.

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