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. 39156 of 2015 (T)

PETITIONER(S):

SIVANANDAN. N.,
S/O.LATE SANKARAN, AGED 73 YEARS,
RESIDING AT CHUNDAVILAKONATHU VEEDU,
CHEPRA P.O., ODANAVATTOM VILLAGE,
KOTTARAKARA TALUK, KOLLAM DISTRICT.

BY ADV. SRI.V.A.AJIVAS.

RESPONDENT(S):

THE AUTHORIZED OFFICER (CHIEF MANAGER),
THE CO-OPERATIVE URBAN BANK LTD. NO.1909,
KOTTARAKARA, KOLLAM - 691 506.

BY ADV. SMT.DEEPA.V, SC.

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

rs.

WP(C).No. 39156 of 2015 (T)

APPENDIX

PETITIONER'S EXHIBITS:-

P1 - THE TRUE COPY OF THE DISCHARGE CERTIFICATE FROM THE MEDICAL COLLEGE, THIRUVANANTHAPURAM.

P2 - THE TRUE COPY OF THE COMMISSIONER NOTICE ISSUED TO THE PETITIONER DATED 06.11.2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.39156 OF 2015 (T)

Dated this the 22nd day of December, 2015

J U D G M E N T

The petitioner, who had availed of 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.P2 is the notice issued by the Advocate Commissioner. 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 for the petitioner as also the learned Standing counsel appearing for the respondent bank.

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 respondent 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 overdue amount, in respect of the loan availed by the petitioner, is stated to be Rs.2,20,000/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.2,20,000/- together with accrued interest in twelve equal and successive monthly installments commencing from 5.1.2016, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is further 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 furnish the petitioner with an up-to-date statement of the dues position together with interest within ten days from today so as to enable the petitioner to discharge his liability in accordance with the directions in this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/22/12/15