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. 39289 of 2015 (I)

PETITIONER:

BINU EASO AGED 41 YEARS
S/O. M.E.EASO, THEKKEMURIYIL HOUSE
MALLAPPALLY WEST P.O., MALLAPPALLY
PATHANAMTHITTA-689 585.

BY ADV. SRI.BIJU ABRAHAM

RESPONDENTS:
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1. SUNDARAM BNP PRIBAS HOME FINANCE LIMITED
SUNDARAM TOWERS, 46, WHITES ROAD
CHENNAI-600014, REP. BY ITS AUTHORIZED OFFICER.

2. THE BRANCH MANAGER SUNDARAM BNP PARIBAS
HOME FINANCE LIMITED, 1ST FLOOR, KUNNATH BUILDING
T.K.ROAD, NEAR ST. PETER'S JUNCTION, NANNUVAKADU
PATHANAMTHITTA-689645.

BY SRI.VARGHESE C.KURIAKOSE SC

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

WP(C).No. 39289 of 2015 (I)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1- A TRUE COPY OF THE NOTICE DATED 18-08-2015 IN CONNECTION WITH LOAN OF RS. 1,00,00,000/-

EXHIBIT P2- A TRUE COPY OF THE NOTICE DATED 18-08-2015 IN CONNECTION WITH LOAN OF RS. 31,00,000/-

EXHIBIT P3- A TRUE COPY OF THE POSSESSION NOTICE PUBLISHED ON 18-08-2015.

EXHIBIT P4- A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER PERSONALLY TO THE RESPONDENTS DATED 05-10-2015.

EXHIBIT P5- A TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE ADVOCATE COMMISSION KAPIL V.C. DATED 03-12-2015.

EXHIBIT P6- A TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE ADVOCATE COMMISSION THOMAS T. MATHEW DATED 14-12-2015.

RESPONDENTS' 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.39289 of 2015

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Dated this the 22nd day of December 2015

<u>JUDGMENT</u>

The petitioner, who had availed two loans 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. Exts.P5 and P6 are the notices issued to the petitioner 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 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 overdue amount, in respect of the loan, is stated to be Rs.22,89,437 + Rs.7,35,322 (Total Rs.30,24,759/-) together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.30,24,759/- together with accrued interest in ten equal and successive monthly installments commencing from 05.01.2016, and continues to keep up the regular installment payments as per the original loan schedule, 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 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

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