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. 39301 of 2015 (K)

PETITIONER:

KUNHIMOIDEEN AGED 52 YEARS
S/O.KUNHI KAMMU, THOZHUKKATT HOUSE, KUTTIPPURAM
MALAPPURAM DISTRICT 679571

BY ADVS.SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN
SRI.K.ABDUL HAKEEM

RESPONDENTS:

1. THE AUTHORIZED OFFICER
   MALAPPURAM DISTRICT CO-OPERATIVE BANK LIMITED
   HEAD OFFICE, UP HILL, MALAPPURAM 676505

2. MALAPPURAM DISTRICT CO-OPERATIVE BANK LIMITED
   BRANCH OFFICE, KUTTIPURAM, MALAPPURAM 679571
   REPRESENTED BY ITS BRANCH MANAGER

BY SRI.E.S.M.KABEER,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. 39301 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS

P1: TRUE PHOTOCOPY OF NOTICE UNDER SECTION 13(2) SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT

P2: TRUE PHOTOCOPY OF POSSESSION NOTICE

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. 39301 of 2015

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Dated this the 22nd 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.P2 is the possession notice issued to the petitioner 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 overdue amount, in respect of the loan, is stated to be Rs.6,61,747/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.6,61,747/- together with accrued interest and other charges 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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