IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

TUESDAY, THE 29TH DAY OF DECEMBER 2015/8TH POUSHA, 1937

WP(C).No. 39962 of 2015 (U)

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PETITIONER(S):

SANDHU MOHAMMED T.A AGED 63 YEARS
S/O.ATHAR RATHER, 8/86, MADEENA MANZIL
ARUMUGHAN GARDENS, CHANDRA NAGAR, PALAKKAD-678 007.

BY ADVS.SRI.T.B.HOOD
SMT.M.ISHA
SRI.AMAL KASHA

RESPONDENT(S):

1. AUTHORISED OFFICER
   UNION BANK OF INDIA, LAKSHMY RESIDENCY, SULTANPET
   COIMBATORE ROAD, PALAKKAD-678 001.

2. BRANCH MANAGER
   UNION BANK OF INDIA, PALAKKAD BRANCH
   LAKSHMY RESIDENCY, SULTANPET, COIMBATORE ROAD
   PALAKKAD-678 001

BY SRI.A.S.P.KURUP, SC, UNION BANK OF INDIA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**WP(C).No. 39962 of 2015 (U)**
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**
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**EXT.P1.** **TRUE COPY OF THE STATEMENT OF ACCOUNTS IN RESPECT OF THE LOAN ACCOUNT**

**EXT.P2.** **TRUE COPY OF THE MEDICAL CERTIFICATE DATED 26/3/2015 ISSUED TO THE PETITIOENR**

**EXT.P3.** **TRUE COPY OF THE NOTICE DATED 1/8/2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER U/S.13(2) OF THE SARFAESI ACT.**

**EXT.P4.** **TRUE COPY OF THE POSSESSION NOTICE DATED 8/12/2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER U/S.13(4) OF THE SARFAESI ACT.**

**EXT.P5.** **TRUE COPY OF THE NOTICE DATED 23/12/2015 ISSUED BY THE ADVOCATE COMMISSIONER TO THE PETITIONER**

**RESPONDENT(S)' EXHIBITS** **NIL**
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**//TRUE COPY//**

**P.A TO JUDGE**

**vdv**

ANIL. K. NARENDRAN, J.

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W.P(C)No.39962 of 2015

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Dated this the 29th day of December, 2015

JUDGMENT

The petitioner, who availed a housing loan from the respondent Bank, has approached this Court in this writ petition seeking the following reliefs:

i) Declare that the proceedings taken by the respondents under the provisions of the SARFAESI Act without declaring the account of the petitioner as non-performing asset(NPA) account as stipulated under the relevant guidelines of the Reserve Bank of India is arbitrary and illegal.

ii) Issue a writ in the nature of mandamus or any other writ, order or direction commanding the respondents to forbear from taking action against the petitioner on the basis of Exts.P2 to P5 notices.

iii) Issue a writ in the nature of mandamus or any other writ, order or direction commanding the respondents to permit the petitioner to pay off the overdue home loan account in easy installments and to regularize his home loan account.

iv) Pass such other order or direction as this Hon'ble Court may deem fit and proper on the facts and circumstances of the case.

2. I heard the arguments of the learned counsel for the petitioner and also the learned counsel appearing for the respondent Bank.

3. The materials on record would show that the petitioner has defaulted payment of monthly installments as a result of which there is an overdue amounting to ₹5,00,000/- as on date. The learned counsel for the petitioner would submit that out of the overdue amount of ₹5,00,000/-, the petitioner shall remit ₹2,50,000/- by 15.01.2016 and the balance amount of ₹2,50,000/- on or before 15.02.2016. Further, the petitioner shall remit the regular monthly installments in time.

4. The learned counsel for the respondent Bank would submit that if the petitioner is remitting the overdues as submitted above, the Bank is prepared to regularize the loan account and permit him to remit the loan amount in regular monthly installments.

5. After considering the rival submissions made as above, I deem it appropriate to dispose of this writ petition with the following directions:

i) The petitioner shall remit a sum of ₹2,50,000/- on or before 15.01.2016 and a further sum of ₹2,50,000/- on or before 15.02.2016.

ii) On the petitioner clearing the overdues amounting to ₹5,00,000/-, the respondent Bank shall regularize the loan account and permit the petitioner to clear the loan amount in regular monthly installments.

Iii) If the petitioner is remitting the aforesaid installments and continues to remit the regular monthly installments all recovery proceedings pursuant to Exts.P3 and P4 shall be kept in abeyance.

iv) In case of any default on the part of the petitioner in remitting any one of the aforesaid installment, it would be open to the respondent Bank to proceed with Exts.P2 to P5 without any further notice to the petitioner.

Sd/-

ANIL.K.NARENDRAN, JUDGE

vdv/29/12/15