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.40000 of 2015 (Y)

PETITIONER :

RAJAN, AGED 49 YEARS,
S/O.DASAN, SALEM HOUSE, PALLIMUKKU,
PEYAD, THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.P.SAMSUDIN
SRI.JITHIN LUKOSE

RESPONDENTS -:

1. THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LTD., HEAD OFFICE, KIZHAKKE KOTTA, THIRUVANANTHAPURAM-695023, REPRESENTED BY ITS AUTHORIZED OFFICER.

2. AUTHORISED OFFICER, THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LTD., HEAD OFFICE, KIZHAKKE KOTTA - 695 023, THIRUVANANTHAPURAM.

3. BRANCH MANAGER, THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LTD., PEYAD BRANCH - 695 674, THIRUVANANTHAPURAM.

BY SRI.T.R.HARIKUMAR, SC, THIRUVANANTHAPURAM DIST.CO.

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. 40000 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS :-

EXHIBIT P1. TRUE COPY OF THE MEDICAL CERTIFICATES OF THE PETITIONER.
EXHIBIT P2. TRUE COPY OF THE NOTICE ISSUED BY THE BANK.
EXHIBIT P3. TRUE COPY OF THE NOTICE ISSUED BY THE BANK DATED 03.11.2015.
EXHIBIT P4. TRUE COPY OF THE PASS BOOK AND RECEIPTS EVIDENCING PAYMENT OF INSTALLMENTS.
EXHIBIT P5. TRUE COPY OF THE PAPER PUBLICATION DATED 27.11.2015 IN MATHRUBHUMI DAILY.

RESPONDENTS' EXHIBITS :- NIL.

True copy

P.A to Judge

ANIL K.NARENDRAN, J.

W.P.(C)No.40000 of 2015

Dated this the 29th day of December, 2015

JUDGMENT

The petitioner availed a housing loan of ₹8,00,000/- from the 1st respondent Bank. He has approached this Court in this Writ Petition seeking a writ of certiorari to quash Exts.P2 and P3 notices issued under the SARFAESI Act. The petitioner has also sought for a writ of mandamus commanding the respondents to permit him to pay off the entire loan amount in 12 equal monthly installments.

2. I heard the arguments of the learned counsel for the petitioner and also the learned Standing Counsel appearing for the respondents.

3. The learned counsel for the petitioner would submit that the petitioner could not repay the loan amount in time due to reasons beyond his control. Relying on Ext.P1 medical certificate the learned counsel would also point out that the petitioner met with an accident in the year 2013 and his right hand was mutilated and thereafter he was not in a position to go for work.

4. The learned Standing Counsel for respondent Bank would submit that the total liability as on 16.2.2013 comes to ₹7,25,535/- as shown in Ext.P2 and if the petitioner is prepared to remit the said amount together with interest in reasonable installments, the respondent Bank is prepared to keep in abeyance the recovery proceedings.

5. After considering the rival contentions I deem it appropriate to dispose of the Writ Petition with the following directions:-

The petitioner shall clear the total loan amount outstanding amounting to ₹7,25,535/- together with interest due from 16.2.2013 in 10 equal monthly installments commencing from **18.1.2016.** If the petitioner is remitting the aforesaid installments in time, all recovery proceedings pursuant to Exts.P2 and P3 shall be kept in abeyance. In case of any default committed by the petitioner in remitting any one of the aforesaid installments it would be open to the respondent Bank to proceed with Exts.P2 and P3 without any further notice to the petitioner.

Sd/-
ANIL K.NARENDRAN, JUDGE

skj