IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

TUESDAY, THE 30TH DAY OF DECEMBER 2014/9TH POUSHA, 1936

WP(C).No. 35371 of 2014 (V)

PETITIONERS:
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1. **AFSAL. B, S/O.B.BAKER, ASHRAF MANZIL, THALAYOLAPARAMBU KOTTAYAM-686 605.**

2. **SHAMLA UMMERKHAN, W/O.AFSAL.B., ASHRAF MANZIL, THALAYOLAPARAMBU KOTTAYAM-686 605.**

BY ADVS.SRI.THOMAS T.VARGHESE
SRI.SASI.N

RESPONDENTS:
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1. **THE AUTHORIZED OFFICER STANDARD CHARTERED BANK, IST FLOOR, H.D.F.C. HOUSE, M.G.ROAD, RAVIPURAM JUNCTION, ERNAKULAM - 682 010.**

2. **BRANCH MANAGER, STANDARD CHARTERED BANK, 1ST FLOOR, H.D.F.C. HOUSE M.G.ROAD, RAVIPURAM JUNCTION, ERNAKULAM - 682 010.**

R1-R2 BY ADV. SRI.B.S.SURESH KUMAR
GOVT.PLEADER, SMT.C.K.SHERIN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-12-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 35371 of 2014 (V)

APPENDIX

PETITIONERS' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE DEMAND NOTICE DATED 4.4.2012 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONERS.

EXHIBIT-P2: TRUE COPY OF THE POSSESSION NOTICE DATED 26.7.2012 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONERS.

EXHIBIT-P3: TRUE COPY OF THE ORDER BY THE DEBT RECOVERY TRIBUNAL, ERNAKULAM IN S.A.NO.749/2012 DATED 4.6.2013.

EXHIBIT-P4: TRUE COPY OF THE ORDER BY THE DEBT RECOVERY TRIBUNAL, ERNAKULAM IN I.A.NO.2369/2013 DATED 19.8.2013.

RESPONDENT(S)' EXHIBITS NIL

//TRUE COPY//

PA TO JUDGE

ANIL K. NARENDRAN, J.

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W.P.(C)No.35371 OF 2014

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Dated this the 30th day of December, 2014

JUDGMENT

The petitioners availed a housing loan for Rs.45,49,139/- from the respondent bank on 30.7.2010. In view of the default committed by the petitioners, respondent bank issued Section 13(2) notice under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act') on 4.4.2012, which was followed by Ext.P2 notice under Section 13(4) of the said Act dated 26.7.2012. Against the coercive steps taken by the respondent Bank, the petitioners approached the Debt Recovery Tribunal as well as this Court in different occasions. But the fact remains, though the petitioners could make certain payments, they could not comply with the conditions stipulated in those orders. Now the grievance of the petitioners is that the respondent Bank is taking hasty steps to dispossess them from their residential house. According to the petitioners, if a breathing time is given, they will be in a position to clear the entire over dues.

2. Heard the arguments of the learned counsel for the petitioners and the learned Standing Counsel appearing for the respondent Bank.

3. The learned Standing Counsel for the respondent Bank would point out the in spite of various orders obtained from the Debt Recovery Tribunal as well as from this Court, the petitioners could not comply with the conditions stipulated therein. Therefore, the learned counsel would contend that the petitioners are not entitled to seek any further indulgence from this Court. The learned Standing Counsel would further point out that as on today the over dues comes to Rs.3,55,000/-.

4. It is not in dispute that though on various occasions, the Debt Recovery Tribunal as well as this Court granted conditional orders to the petitioners to settle the amount outstanding, they could not comply with those conditions though certain part payments were made. Now the petitioners are prepared to clear the entire over dues of Rs.3,55,000/- within a period that may be fixed by this Court.

Considering the facts and circumstances of the case, this writ petition is disposed of directing the petitioners to remit the entire over dues of Rs.3,55,000/- with the respondent bank within twenty days from today. The respondent Bank shall keep in abeyance the recovery proceedings for a period of one month to enable the petitioners to clear the over dues as above. On the petitioners remitting the said amount as directed above, the respondent Bank shall take necessary steps to regularise the loan account and permit them to remit the balance instalments in terms of the repayment schedule. It is made clear that, in case the petitioners commit default in remitting the entire over dues of Rs.3,55,000/- within twenty days from today, the respondent Bank shall proceed further with the recovery proceedings.

ANIL K. NARENDRAN,
Judge

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