IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

RP.No. 240 of 2015 ()

(AGAINST THE JUDGMENT IN WP(C).NO. 34625/2014 DATED 19-12-2014)

REVIEW PETITIONER(S)/PETITIONERS:

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1. ARUN NAIR P.,
S/O.PARAMESWARAN NAIR,AGED 38 YEARS,
"SIVAPRASADOM", TC 50/142 (1),
KSRA 68, KALADY, KARAMANA P.O.,
TRIVANDRUM - 695 002.

2. PARAMESWARAN NAIR,
S/O.KUTTU PILLAI,AGED 70 YEARS,
"SIVAPRASADOM", TC 50/142 (1),
KSRA 68, KALADY, KARAMANA P.O.,
TRIVANDRUM - 695 002.

3. MANJU PRASAD,
W/O.ARUN NAIR P.,AGED 38 YEARS,
"SIVAPRASADOM", TC 50/142(1),
KSRA 68, KALADY, KARAMANA P.O.,
TRIVANDRUM - 695 002.

BY ADVS.SRI.M.S.UNNIKRISHNAN
SRI.P.FAZIL

RESPONDENT(S)/RESPONDENTS:

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1. HOUSING DEVELOPMENT FINANCE CORPORATION LIMITED,
REPRESENTED BY ITS SENIOR MANAGER, HDFC HOUSE,
POST BAG NO. 2288, VAZHUTHACAUD, THIRUVANANTHAPURAM,
PIN CODE - 695 010.

2. THE AUTHORISED OFFICER,
H.D.F.C, HDFC HOUSE, POST BAG NO. 2288,
VAZHUTHACAUD, THIRUVANANTHAPURAM, PIN CODE - 695 010.

R1 & R2 BY ADV. SMT.S.AMBILY

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 12-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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R.P.NO.240/2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEX A1	CERTIFIED COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 19/12/2014 IN WP(C).NO.34625 OF 2014.
ANNEX A2	COPY OF THE DISCHARGE SUMMARY OF SMT. KUSUMAM PARAMESWARAM, FROM DEPARTMENT OF RADIOTHERAPY AND ONCOLOGY, MEDICAL COLLEGE HOSPITAL, THIRUVANANTHAPURAM DATED 03/12/2011
ANNEX A3	COPY OF THE DEATH CERTIFICATE OF SMT. KUSUMAM P. NAIR DATED 11/02/2015 ISSUED BY THIRUVANANTHAPURAM CORPORATION
ANNEX A4	COPY OF THE TREATMENT RECORDS OF THE 2ND PETITIONER.
ANNEX A5	COPY OF THE DEMAND DRAFT NO.947337 DATED 31/12/2014 DRAWN ON STATE BANK OF INDIA VANCHIYOOR BRANCH IN FAVOUR OF THE RESPONDENTS

RESPONDENT'S ANNEXURES: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.R. RAMACHANDRA MENON, J.

Review Petition No. 240 of 2015
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Dated this the 12th day of March, 2015

O R D E R

Coercive proceedings taken by the respondent Bank invoking the machinery under the SARFAESI Act were sought to be intercepted by filing WP(C) No.34625 of 2014, which was disposed of, as per judgment dated 19.12.2014, permitting the petitioners to liquidate the liability towards the overdue amount by way of monthly instalments, the first of which was to be effected on or before 31.12.2014. It is stated that the petitioners have satisfied a sum of ₹1.20 lakhs on 31.01.2015 and have filed the Review Petition, seeking to modify the verdict because of pressing circumstances.

2. Heard the learned counsel for the petitioners as well as the learned counsel appearing for the Bank.

3. During the course of hearing, it is brought to the notice of this Court that, it was only by virtue of the bad plight of the petitioners that the petitioners were not in a position to satisfy the entire amount as ordered by this Court as per the judgment in WP (C) No.34625/2014. The mother of the petitioners was seriously

ill, suffering from 'Carcinoma' and after prolonged treatment of nearly two years, she succumbed to the illness and bid farewell to this world, despite the huge expenditure made by the petitioners borrowing amount from different corners to provide the treatment, which could not save her. It is stated that, the father of the petitioners is also suffering from the same dreadful disease and is undergoing treatment, for which further expenses are being incurred. Medical records have been produced by the petitioners along with the Review Petition as Annexures A2 to A4. It is in the said circumstances, that modification of the verdict is sought for, because of the compelling circumstances.

4. The learned counsel appearing for the Bank submits that, the 'overdue' amount as on date, after giving credit to the sum of ₹1.2 lakhs satisfied by the petitioners pursuant to the verdict passed by this Court, is nearly ₹6,39,430/- (Rupees six lakhs thirty nine thousand four hundred and thirty only) and that, in the particular facts and circumstances, the petitioners could be accommodated to reasonable extent, as found to be fit, just and proper by this Court.

5. After hearing both the sides and also considering the

fair submission made from the part of the Bank, this Court finds it fit and proper to permit the petitioners to satisfy the obligation in a phased manner. The petitioners are set at liberty to clear the 'overdue' amount by way of 15 equal monthly instalments, the first of which shall be effected on or before '31.03.2015', followed by similar installments, to be effected on or before the last working day of the succeeding months. This shall be in addition to the liability of the petitioners to clear the regular EMIs. Subject to this, the recovery proceedings shall be kept in abeyance, for the time being. It is made clear that, if any single default is committed with regard to the satisfaction of the 'overdue' as above, or if any two consecutive defaults are made with regard to the regular monthly installments, it will be open for the respondent Bank to proceed with further steps for realization of the entire amount in lump, by pursuing such steps from the stage where it stands now.

The Review petition stands disposed of.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

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