IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 378 of 2015 (V)

PETITIONER(S) :
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1. VIJAYAN.C, AGED 64 YEARS,
   S/O.CHELLAPPAN, AYANIMOODU, NETTA,
   THIRUVANANTHAPURAM DISTRICT.

2. GIRIJA.C.S, AGED 56 YEARS,
   W/O.VIJAYAN, AYANIMOODU, NETTA,
   THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.SAJU.S.A

RESPONDENT(S) :
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1. NEDUMANGAD CO-OPERATIVE URBAN BANK LTD NO.3193,
   REPRESENTED BY ITS MANAGER, NEDUMANGAD P.O,
   THIRUVANANTHAPURAM, PIN- 695 541.

2. THE MANAGER,
   NEDUMANGAD CO-OPERATIVE URBAN BANK LTD NO.3193,
   NEDUMANGAD P.O, THIRUVANANTHAPURAM, PIN- 695 541.

3. AUTHORISED OFFICER,
   NEDUMANGAD CO-OPERATIVE URBAN BANK LTD NO.3193,
   NEDUMANGAD P.O, THIRUVANANTHAPURAM, PIN- 695 541.

4. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
   CO BANK, TOWERS, PALAYAM, THIRUVANANTHAPURAM-695 033.

R1 TO R3 BY ADVS. SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SMT.R.BINDU
R4 BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 378 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: **TRUE COPY OF THE M.C NO.1089/2014 DATED 25-10-2014.**

EXHIBIT P2: **TRUE COPY OF THE ORDER DATED 27-10-2014 IN M.C NO.1089/2014 OF CJM COURT THIRUVANANTHAPURAM.**

EXHIBIT P3: **TRUE COPY OF THE REPRESENTATION DATED 19-12-2014 SENT BY THE PETITIONER TO THE 4TH RESPONDENT.**

RESPONDENT(S)' EXHIBITS
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NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.378 OF 2015 ( )

Dated this the 23rd day of March, 2015

J U D G M E N T

The petitioners, who had availed of a loan from the respondent bank, defaulted in repayment of the same. Consequently, the respondent bank initiated proceedings under the SARFAESI Act, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts. Ext.P2 is the order issued by the Chief Judicial Magistrate Court, Thiruvananthapuram, appointing an Advocate Commissioner to take possession of the property of the petitioners. In the writ petition, the petitioners impugn the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing for the petitioners as also the learned Standing counsel appearing for the respondent bank.

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 petitioners is to permit them to remit the balance amounts outstanding to the bank in easy installments. Taking into account the plea of financial hardship raised by the petitioners, I dispose the writ petition with the following directions:-

> (i) The total amount outstanding from the petitioners to the respondent bank, is stated to be Rs.2,09,654/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.2,09,654/- together with accrued interest in ten equal and successive installments commencing from 31.3.2015, then the further proceedings initiated against them by the respondent bank shall be kept in abeyance.
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> (ii) It is made clear that if the petitioners commit a default in respect of any of the installments, they will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against them from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp