IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 420 of 2015 (B)

PETITIONERS:

1. P.M.ABDUL RASHEED,AGED 43 YEARS,
S/O.MOHAMMED KUNHI,MUHAMMADIYA MANZIL,
PUTHUR ROAD,RESIDING BEHIND HPCL,
PETROL PUMP,BADIADKA,P.O.PERADALA,
KASARAGOD DISTRICT -671551

2. NAFEESATHUL NAUFAL,AGED 36 YEARS,
W/O.P.M.ABDUL RASHEED,MUHAMMADIYA MANZIL,
PUTHUR ROAD,RESIDING BEHIND HPCL,
PETROL PUMP,BADIADKA P.O.PERADALA,
KASARAGOD DISTRICT-671551.

BY ADVS.SRI.K.SHRIHARI RAO
SMT.N.SHOBHA
SRI.A.S.SREEKANTH

RESPONDENTS:

1. THE SYNDICATE BANK LTD.
REPRESENTED BY ITS MANAGING DIRECTOR,
HEAD OFFICE,MANIPAL,KARNATAKA STATE-576104.

2. THE AUTHORIZED OFFICER,(CHIEF MANAGER),
SYNDICATE BANK,KASARAGOD BRANCH,
CITY CENTRE,BANK ROAD,KASARAGOD-671121.

BY SRI.R.S.KALKURA, SC, SYNDICATE BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.420 of 2015 (B)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P-1:TRUE COPY OF THE NOTICE DATED 31.5.2014 ISSUED BY THE 2ND RESPONDENT.

EXT.P-2:TRUE COPY OF THE NOTICE DATED 13.6.2014 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.420 OF 2015

Dated this the 13th day of January, 2015

J U D G M E N T

The 1st petitioner, who was extended an Over Draft facility, for an amount of Rs.13 lakhs in the year 2013, by the respondent bank, defaulted in repayment of amounts availed. Consequently, the respondent bank initiated proceedings under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts. Ext.P1 is the notice issued under Section 13(4) of the SARFAESI Act. Ext.P2 is the sale notice that is issued by the respondent bank, pursuant to which, however, no sale was conducted. In the writ petition, the petitioners impugn the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.K.Shrihari Rao, the learned counsel appearing on behalf of the petitioners as also Sri.R.S.Kalkura, the learned Standing counsel appearing on behalf of the respondents.

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 instalments. 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 1st petitioner is stated to be Rs.31,51,764/- together with accrued interest. Accordingly, if the 1st petitioner effects payment of the said amount of Rs.31,51,765/-together with accrued interest in 12 equal and successive monthly instalments commencing from 15th February, 2015, then the further proceedings for recovery of the amounts shall be kept in abeyance.

(ii) It is made clear that if the 1st petitioner commits a default in respect of any of the instalments, he will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns