IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 699 of 2015 (J)

PETITIONERS :
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1. SURESH KUMAR,AGED 42 YEARS,
   S/O.MADHAVAN NAIR, PAYATTUVILA PUTHEN VEEDU,
   UMMANOOR P.O., PRANKODEL, KOTTARAKKARA,
   KOLLAM.

2. MADHAVAN NAIR, AGED 68 YEARS,
   S/O. VASUDEVAN, KAVALAKKAL PACHA,
   THEVANOOR.P.O., KOTTARAKKARA, KOLLAM.

BY ADV. SRI.SAJIV.C.K.

RESPONDENT(S):
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1. THE MANAGER, INDUS IND BANK LTD,
   KOLLAM BRANCH - 690 001.

2. AUTHORIZED OFFICER (UNDER SARFAESI ACT),
   INDUS IND BANK LTD, RAMA BHAVAN, NEAR TOLL JUNCTION,
   EDAPPALLY, KOCHI - 682 024.

R1 & R2 BY ADV. SRI.VARGHESE C.KURIAKOSE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 699 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE RC BOOK OF THE VEHICLE BEARING NO. 24 D 9891.

EXT.P2: TRUE COPY OF THE STATEMENT OF ACCOUNT PERTAINING TO THE PETITIONERS.

EXT.P3: TRUE COPY OF THE CRIMINAL MISCELLANEOUS PETITION NO. 9521/2014 FILED BY THE 2ND RESPONDENT.

EXT.P4: TRUE COPY OF THE ORDER DATED 27/11/2014 IN CMP NO. 9521/2014 OF HON'BLE CHIEF JUDICIAL MAGISTRATE COURT, KOLLAM.

EXT.P5: TRUE COPY OF THE PRE SALE NOTICE DATED 22/12/2014 ISSUED BY THE 2ND RESPONDENT.

EXT.P6: TRUE COPY OF THE REPRESENTATION DATED 01/01/2015 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 699 of 2015 (J)

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Dated this the 21st day of January, 2015

JUDGMENT

The petitioners, who had availed of a vehicle loan from the respondent Bank, defaulted in re-payment of the same. Ext.P4 is the order passed by the Chief Judicial MagistrateCourt, Kollam under Section 14 of the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', to take possession of the secured asset as security to the respondent bank, for the loan availed by the petitioner. Ext.P5 is the sale notice, issued by the respondent Bank to the petitioners in that regard. It is also informed that the possession of the vehicle has already been taken over by the respondent Bank. 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.Sajiv C.Krishnan, learned counsel for the petitioners and Sri.Varghese C.Kuriakose, learned Standing counsel appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the sole prayer of the petitioners is to permit them to remit the overdue amount to the bank in easy installments. Taking into account the

plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:

(i) The total overdue amount in respect of the loan from the petitioners to the respondent Bank as of today is stated to be Rs.3,93,000/-. Accordingly, if the petitioners remit an amount of Rs.2,00,000/- within two weeks from the date of receipt of a copy of this judgement, the respondent will handover the possession of the vehicle to the petitioner. Thereafter, if the petitioners pay the remaining amount of Rs.1,93,000/- in three equal and successive monthly installments commencing from 16.02.2015, and continue to pay the loan installments as per the original loan schedule, then, the recovery steps initiated against the petitioners by the respondent bank shall be kept in abeyance.

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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/21/01/