IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 1071 of 2015 (H)

PETITIONER(S):
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1. **R.VINOD,**
   TC. 43/491 PREM, THIRUMOORTHI NAGAR,
   VALLAKADAVU P.O., THIRUVANANTHAPURAM-695 008.

2. **K.R. RAJITHA RAJ,**
   TC. 43/491 PREM, THIRUMOORTHI NAGAR,
   VALLAKADAVU P.O., THIRUVANANTHAPURAM-695 008.

   BY ADV. SRI.A.S.SHAMMY RAJ.

RESPONDENT(S):
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1. **CANARA BANK,**
   REPRESENTED BY ITS MANAGER,
   PUTHENCHANTHA BRANCH,
   THIRUVANANTHAPURAM-695 001.

2. **AUTHORISED OFFICER,**
   CANARA BANK, PUTHENCHANTHA BRANCH,
   THIRUVANANTHAPURAM-695 001.

   BY ADV. SRI.PAULY MATHEW MURICKEN, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 1071 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1. **TRUE COPY OF THE NOTICE DATED 08/05/2014 ISSUED BY THE 2ND RESPONDENT.**

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No. 1071 of 2015 (H)

...

Dated this the 16th day of January, 2015

JUDGMENT

The first petitioner, who had availed of an Open Cash Credit loan from the 1st respondent Bank, and the second petitioner, who stood as a guarantor, defaulted in re-payment of the same. 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', against the petitioner. Ext.P1 is the notice issued under Section 13(2) of the SARFAESI Act, by the respondent Bank to the petitioner in that regard. It is stated that subsequently steps have been taken under Section 13(4) as well. In the writ petition, the petitioners impugn the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.A.S.Shammy Raj, the learned counsel appearing for the petitioners, Sri.Mathew Murickan, 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 total amount due 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 due from the petitioners to the respondent bank as of today is stated to be Rs.33,72,621/- together with accrued interest. Accordingly, if the petitioners remit an amount of Rs.33,72,621/- together with accrued interest in ten equal and successive monthly installments commencing from 31.01.2015, then, the recovery steps initiated against the petitioners for recovery of the amounts outstanding to the 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/16/01/