

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 2040 of 2015 (D)

PETITIONER(S) :

- 1. PRIJESH T.V.,
S/O. PATMANABHA KURUP, THAZHEVATTOLI HOUSE
ERAVANNUR POST, NARIKUNI, CALICUT.**
- 2. PUSHPA T.V.,
THAZHEVATTOLI HOUSE, ERAVANNUR POST,
NARIKUNI, CALICUT.**

BY ADV. SMT.BIMALA BABY

RESPONDENT(S) :

- 1. THE AUTHORISED OFFICER
VEHICLE FINANCE DIVISION, INDUSIND BANK LTD.
RAMA BHAVAN, NEAR PARUTHELI PALAM, TOLL JN.,
EDAPPALLY-682024.**
- 2. INDUSIND BANK LTD.,
MARINA MALL, YMCA CROSS ROAD
CALICUT-673001
REPRESENTED BY ITS BRANCH MANAGER.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 2040 of 2015 (D)

APPENDIX

PETITIONERS' EXHIBITS :

- EXHIBIT P1: TRUE COPY OF THE REPAYMENT SCHEDULE OF THE LOAN ACCOUNT OF THE PETITIONERS.
- EXHIBIT P2: TRUE COPY OF THE STATEMENT OF ACCOUNT ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P3: TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF 3DX 2WD SIDE SHIFT EXCAVATOR BEARING REG.NO.KL-57-G-3660 EARTH MOVER.
- EXHIBIT P4: TRUE COPY OF THE INSURANCE POLICY OF 3DX 2WD SIDE SHIFT EXCAVATOR BEARING REG.NO.KL-57-G-3660 EARTH MOVER.
- EXHIBIT P5: TRUE COPY OF THE NOTICE DATED 13.8.2014 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONERS.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.2040 OF 2015 (D)

Dated this the 10th day of February, 2015

J U D G M E N T

The petitioners, who had availed of a vehicle loan from the respondent bank, defaulted in repayment 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', to recover the loan amounts. Ext.P5 is the notice issued under Section 13(2) of the SARFAESI Act. In the writ petition, the petitioners impugn the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Smt.Bimala Baby, the learned counsel appearing for the petitioners as also Sri.Varghese Kuriakose, 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 overdue amount in respect of the loan availed by the petitioners is stated to be Rs.4,41,408/- together with accrued interest. Accordingly, if the petitioners pay the above amount in six equal and successive monthly installments commencing from 1.3.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against them 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp