IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 2130 of 2015 (M)

PETITIONER(S):
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1. AJEER A.,
   4/500, ELLUVILA COLONY, KATTAKADA
   THIRUVANANTHAPURAM.

2. SHANIBA A.
   2/549, ELLUVILA COLONY, ETTURUTHY
   KATTAKADA, THIRUVANANTHAPURAM.

   BY ADV. SRI.M.R.SASITH

RESPONDENT(S):

M/S. INDUSIND BANK LIMITED
RAMA BHAVAN, TOLL JN., EDAPPALLY
KOCHI, REPRESENTED BY THE AUTHORISED OFFICER
SRI.BISIN K.K., PIN-682 015.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 2130 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : COPY OF THE ORDER PASSED BY THE CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM.

P2 : COPY OF NOTICE ISSUED BY THE RESPONDENT TO THE PETITIONERS.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.2130 of 2015

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Dated this the 5th day of March, 2015

<u>J U D G M E N T</u>

The petitioner, who had availed of a 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.P1 is the order of Chief Judicial Magistrate, Thiruvananthapuram. 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.M.R.Sasith Panicker, the learned counsel appearing on behalf of the petitioners as also Sri.Varghese.C.Kuriakose, the learned Standing counsel 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 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 overdue amount in respect of the loan availed by the petitioners is stated to be Rs.76,000/- together with accrued interest. Accordingly, if the petitioners pay the aforesaid amount of Rs.76,000/- together with accrued interest in two equal and successive monthly instalments commencing from 20.03.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioners by the respondent bank shall be kept in abeyance.

(ii) On payment of the 1st instalment as directed above, the respondent bank shall handover the possession of the secured assets of the petitioners.

(iii) It is made clear that if the petitioners commit a default in respect of any of the instalments, 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

mns