IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 2542 of 2015 (P)

PETITIONER(S):

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1. SATHEESAN C.N., AGED 37,
   S/O NANDANAN, CHIRAVARAMBATH HOUSE, PANJAPPILLY DESOM,
   KAKKETTUMAKARA VILLAGE, MUKUNDAPURAM TALUK,
   THRISSUR DT.

2. SURESH A.P., S/O. PADMANABHAN, AGED 48,
   AIKATHARA HOUSE, PUNJAPARAMB DESAM, KONATHUKUNN,
   KODUNGALLUR TALUK, THRISSUR DT.

   BY ADVS.SRI.P.S. SUJETH
   SMT.M.R. REENA

RESPONDENT(S):

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1. THE BRANCH MANAGER,
   IRINJALAKUDA TOWN CO-OPERATIVE BANK LTD. NO.55,
   NADA BRANCH, IRINJALAKKUDA P.O.,
   THRISSUR DISTRICT, PIN-680 121.

2. THE GENERAL MANAGER/AUTHORISED OFFICER,
   IRINJALAKKUDA TOWN CO-OPERATIVE BANK LTD NO.55, HEAD OFFICE,
   TANA SOUTH, IRINJALAKKUDA PIN-680 121.

   BY ADV. SRI.DEVAPRASANTH P.J.

   THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
   13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 2542 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: THE TRUE COPY OF THE RECEIPT OF DATED 5.2.2013.

EXT.P2: THE TRUE COPY OF THE REPRESENTATION GIVEN BY THE 1ST PETITINER DATED 30.4.2014.

EXT.P3:TRUE COPY OF THE SALE NOTICE DATED 30.12.2014.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.2542 OF 2015

Dated this the 13th day of February, 2015

J U D G M E N T

The petitioners, who had availed of a business 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.P3 is the copy of the sale notice. 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.P.S.Sujeth, the learned counsel appearing on behalf of the petitioner as also Sri.Deva Prasanth, 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 respondent 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 is stated to be Rs.20,23,606/- together with accrued interest. The sale is posted for 14.02.2015. Accordingly, if the petitioner pays an amount of Rs.7,50,000/- by 11 am on 14.02.2015 and remits the balance amount of Rs.12,73,606/- in five equal equal and successive monthly instalments commencing from 15th March, 2015 and continues to keep up the regular instalment payments as per the original loan schedule, then the further proceedings for recovery of loan amounts from the petitioner shall be kept in abeyance.

(ii) 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