IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 4139 of 2015 (N)

PETITIONER(S):
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1. SREEKUMAR. S., AGED 47 YEARS,
   S/O.SATHYADEVAN, PRAVAVAM, S.N. PURAM,
   PAVITHRESWARAM P.O., PUTHOOR, KOLLAM-691 524.

2. VIJYARANI V., AGED 40 YEARS,
   W/O.SREEKUMAR S., PRAVAVAM, S.N. PURAM,
   PAVITHRESWARAM P.O., PUTHOOR, KOLLAM-691 524.

BY ADVS.SRI.K.SHAJ,
SRI.SAJJU.S.

RESPONDENT(S):
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1. THE CATHOLIC SYRIAN BANK LTD.,
   KOLLAM BRANCH, KOLLAM,
   REPRESENTED BY ITS CHIEF MANAGER.

2. THE AUTHORIZED OFFICER (DEPUTY ZONAL MANAGER),
   CATHOLIC SYRIAN BANK LTD., S.M.E. BRANCH, T.D. COMPLEX,
   CHAMAKKADA, KOLLAM, KOLLAM DISTRICT-691 001.

BY ADV. SRI.R.S.KALKURA, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 4139 of 2015 (N)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT P1 : THE TRUE COPY OF NOTICE DATED 31-10-2014 UNDER SECTION 13(2) OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONERS.

EXT P2: THE TRUE COPY OF POSSESSION NOTICE DATED 20-01-2015 UNDER SECTION 13(4) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONERS.

EXT P3: THE TRUE COPY OF LETTER DATED 30-12-2014 ISSUED BY THE FIRST RESPONDENT TO THE SECOND RESPONDENT.

EXT P4: THE TRUE COPY OF LETTER DATED 07-01-2015 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONERS.

EXT P5: THE TRUE COPY OF LETTER DATED 12-01-2015 SUBMITTED BY THE FIRST PETITIONER TO THE FIRST RESPONDENT.

EXT P6: THE TRUE COPY OF LETTER DATED 14-01-2015 ISSUED BY THE SECOND RESPONDENT TO THE FIRST PETITIONER.

EXT P7: THE TRUE COPY OF LETTER DATED 29-01-2015 ISSUED BY THE FIRST RESPONDENT BANK TO THE FIRST PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.4139 OF 2015 (N)

Dated this the 24th day of February, 2015

J U D G M E N T

The petitioners, who had availed of a cash credit facility 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 notice issued under Section 13(2) of the SARFAESI Act and Ext.P2 is the possession notice issued to the petitioner under Section 13(4) of the SARFAESI Act. It is pointed out that, pursuant to Ext.P2 notice, the respondent bank has also taken possession of the secured assets. 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.K.Shaj, the learned counsel appearing for the petitioners as also Sri.R.S.Kalkura, 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 amount outstanding from the petitioners to the respondent bank, is stated to be Rs.2,86,71,730/- together with accrued interest. Accordingly, if the petitioners pay an amount of Rs.25,00,000/- on or before 20.3.2015, and pays the balance amount of Rs.2,61,71,730/- together with accrued interest on or before 25.6.2015, then the recovery steps initiated against them by the respondent bank shall be kept in abeyance.
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> (ii) It is made clear that the payments as directed above, if effected by the petitioners, shall be without prejudice to their right to approach the bank for a One Time Settlement Scheme, and a consideration of the said application by the bank. Depending on the outcome of the discussion with the respondent bank, the payments to be insisted from the petitioners shall also be revised accordingly.
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> (iii) It is made clear that if the petitioners commit a default in any of the conditions mentioned above,

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