IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 4190 of 2015 (W)

PETITIONER(S) :

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1. RAJI A.B, AGED 64 YEARS,
   W/O.BHARATHAN, ENGAKAD HOUSE, PARAKKAD DESOM,
   PARAKKAD VILLAGE, ARIMBOOR P.O, THRISSUR TALUK,
   THRISSUR DISTRICT-680 620.

2. BHARATHAN, AGED 64 YEARS,
   ENGAKAD HOUSE, PARAKKAD DESOM, PARAKKAD VILLAGE,
   ARIMBOOR PO, THRISSUR TALUK, THRISSUR DISTRICT-680 620.

   BY ADVS.SMT.M.R.REENA
   SRIP.S.SUJETH

RESPONDENT(S) :

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1. THE BRANCH MANAGER,
   THRISSUR URBAN CO-OPERATIVE BANK LTD.,
   KUNNATHANGADI BRANCH, ARIMBOOR P O, THRISSUR DISTRICT.

2. AUTHORIZED OFFICER,
   THRISSUR URBAN CO-OPERATIVE BANK LTD. NO. 87,
   HEAD OFFICE, MISSION QUARTERS, THRISSUR 1

   BY ADV. SRI.C.D.DILEEP, S.C

   THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
   ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED
   THE FOLLOWING:

Msd.

WP(C).No. 4190 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: **THE TRUE COPY OF THE PHOTOGRAPH OF THE NATURAL CALAMITY CAUSED TO THE HOUSE OF THE PETITIONER.**

P2: **TRUE COPY OF THE RECEIPT RECEIVED FROM THE OFFICE OF THE DISTRICT COLLECTOR, THRISSUR.**

P3: **TRUE COPY OF THE PASSBOOK OF THE PETITIONER.**

P4: **TRUE COPY OF THE RECEIPT OF RS.15,000/- DATED 15/01/2015.**

P5: **TRUE COPY OF THE REPRESENTATION GIVEN BY THE PETITIONERS DATED 15/01/2015.**

P6: **TRUE COPY OF THE SALE NOTICE ISSUED TO THE PETITIONERS DATED 21/01/2015.**

RESPONDENT(S)' EXHIBITS
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NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.4190 OF 2015 (W)

Dated this the 4th day of March, 2015

J U D G M E N T

The petitioners, 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.P6 is the sale notice issued to the petitioners. 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.M.R.Reena, the learned counsel appearing for the petitioners as also Sri.C.D.Dileep, 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.2,00,000/- together with accrued interest. Accordingly, if the petitioners pay the above amount of Rs. 2,00,000/- together with accrued interest in six equal and successive monthly installments commencing from 16.3.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against them by the respondent bank shall be kept in abeyance.
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> (ii) It is made clear that if the petitioners commit a default in respect of any of the installments, he 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