IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 4843 of 2015 (E)

PETITIONERS :

1. ROHINI P.K., AGED 61 YEARS,
   W/O. KUNHIKRISHNAN M,(PARENDERI KAKKOTH)
   THULASI NIVAS, PATTIAM AMSOM, KONGATTA DESOM
   PATHAYAKUNNU (P.O), KANNUR (DISTRICT)

2. KUNHIKRISHNAN M., AGED 63 YEARS,
   S/O.GOPALAN, PATTIAM AMSOM, KONGATTA DESOM,
   PATHAYAKUNNU (P.O), KANNUR (DISTRICT)

   BY ADVS.SMT.K.DEEPA (PAYYANUR)
   SRI.V.R.NASAR

RESPONDENTS :

1. THE BRANCH MANAGER, ANDHRA BANK FOR THALASSERY,
   BRANCH,12/2013,PQRS 1ST FLOOR,FASHION COMPLEX,SANGAMAM
   JUNCTION,GOOD SHED ROAD,THALASSERY BRANCH,KANNUR DISTRICT)

2. THE AUTHORIZED OFFICER(CHIEF MANAGER)
   ANDHRA BANK FOR THALASSERY BRANCH, KANNUR (DISTRICT)

   R1 & R2 BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)
   BY ADV. SRI.SRI.ANIL ABEY JOSE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 4843 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHBIIT P1: **TRUE OF THE POSSESSION NOTICE DATED 12-05-2014 UNDER SECTION 13(4) OF THE SAID ACT READ WITH RULE8(1) OF THE SAID RULES ISSUED TO THE PETITIONERS BY THE 2ND RESPONDENT**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.4843 of 2015

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Dated this the 1st day of April, 2015

J U D G M E N T

The petitioners, who as borrower and co-obligant, 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 possession notice under Section 13(4) of the SARFAESI Act issued to the petitioners by the 2nd respondent. In the writ petition, the petitioners impugn the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing on behalf of the petitioners as also 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.2,50,000/- together with accrued interest. Accordingly, if the petitioners pay the aforesaid amount of Rs.2,50,000/- together with accrued interest in 10 equal and successive monthly instalments commencing from 20.04.2015, 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) 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