IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No.5249 of 2015 (E)

PETITIONERS:
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1. **MADHUKUMAR.N,S/O.NARAYANAN NAIR, KIZHAKKEKARA HOUSE, MANARCADU P.O.,KOTTAYAM.**

2. **SHEELAKUMARI P.G,W/O.MADHUKUMAR.N, KIZHAKKEKARA HOUSE,MANARCADU P.O.,KOTTAYAM.**

BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.NANDAGOPAL S.KURUP

RESPONDENT:

THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.
HEAD OFFICE,KOTTAYAM,REP. BY ITS AUTHORISED OFFICER-685001.

R1 BY SRI.SUNIL CYRIAC,SC,DIST.CO-OP,BANK,KTM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No.5249 of 2015 (E)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:A TRUE COPY OF THE NOTICE DATED 13.8.2014 ISSUED BY THE RESPONDENT UNDER S.13(2) OF THE SARFEASI ACT.

EXT.P2:A TRUE COPY OF NOTICE DATED 30.1.2015 ISSUED BY THE ADVOCATE COMMISSIONER APPOINTED BY THE CHIEF JUDICIAL MAGISTRATE, KOTTAYAM IN CMP NO.3543/2014.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5249 OF 2015 (E)

Dated this the 19th day of February, 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.P1 is the notice issued to the petitioners under Section 13(2) of the SARFAESI Act and Ext.P2 is the notice issued by the Advocate Commissioner pursuant to the direction issued by the Chief Judicial Magistrate Court, Kottayam. 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.G.Sreekumar, the learned counsel appearing on behalf of the petitioners as also Sri.Sunil Cyriac, the learned Standing counsel appearing on behalf of 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 is stated to be Rs.2,11,114/- together with accrued interest. Accordingly, if the petitioners remit the aforesaid amount together with accrued interest in seven equal and successive monthly installments commencing from 2.3.2015, and continue to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against them 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 installments, 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