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. 5764 of 2015 (U)

PETITIONER(S) :
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1. **E.T.SANTHOSH KUMAR, AGED 42 YEARS,**
   S/O.K.THANKAPPAN, ETTICHUVATIL HOUSE,
   ARAKULAM P.O, IDUKKI DISTRICT.

2. **SMT.PRIYA SANTHOSH KUMAR,**
   ETTICHUVATIL HOUSE, ARAKULAM P.O,
   IDUKKI DISTRICT.

BY ADV. DR.GEORGE ABRAHAM

RESPONDENT(S) :
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1. **HOUSING DEVELOPMENT FINANCIAL CORPORATION LTD.,**
   H.D.F.C.HOUSE, REVIPURAM, POST BOX NO.1667,
   M.G.ROAD, KOCHI- 15.

2. **AUTHORIZED OFFICER,**
   H.D.F.C.HOUSE, REVIPURAM, POST BOX NO.1667,
   M.G.ROAD, KOCHI- 15.

BY ADV. SMT.S.AMBILY

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

Msd.

WP(C).No. 5764 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE HOME LOAN AGREEMENT DATED 19.04.2013.

EXHIBIT P2: TRUE COPY OF THE COMMUNICATION ISSUED BY THE 1ST RESPONDENT DATED 08.08.2014.

EXHIBIT P3: TRUE COPY OF THE COMMUNICATION ISSUED BY THE RESPONDENTS DATED 10.11.2014.

EXHIBIT P4: TRUE COPY OF THE DEMAND NOTICE DATED 12TH DECEMBER, 2014, UNDER SECTION 13(2) OF THE SECURITIZATION ACT.

RESPONDENT(S)' EXHIBITS
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.5764 of 2015 (U)

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Dated this the 24th day of February, 2015

JUDGMENT

The petitioners, who have availed of a housing loan from the 1st respondent Bank in the year 2013, defaulted in re-payment 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', against the petitioners. Ext.P4 is the notice, issued under Section 13(2) of SARFAESI Act to the petitioners in that regard. In the writ petition, the petitioners impugn the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.George Abraham, the learned counsel appearing for the petitioners and Smt.S.Ambily, learned Standing counsel appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the sole prayer of the petitioner is to permit him to remit the overdue amount to the bank in easy installments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:

(i) The total overdue amount in respect of the loan from the petitioners to the respondent Bank is stated to be Rs.3,03,637/- together with accrued interest. Accordingly, if the petitioners remit the amount of Rs.3,03,637/- together with accrued interest in eight equal and successive monthly installments commencing from 05.03.2015, and continue to pay the regular monthly installments as per the original loan schedule, then, the recovery steps initiated against them, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/24/02/