IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 5827 of 2015 (C)
--

PETITIONER(S):
----

1. **PUNNAKKAL ABOOBACKER,**
   FAYIS MANZIL, KANDAMKUNNU AMSOM, MAMBARAM DESOM,
   P.O.AYITHARAMAMBARAM, KOOTHUPARAMBA, KANNUR DISTRICT.

2. **ASMA,**
   W/O.PUNNAKKAL ABOOBACKER, FAYIS MANZIL,
   KANDAMKUNNU AMSOM, MAMBARAM DESOM,
   P.O.AYITHARAMAMBARAM, KOOTHUPARAMBA, KANNUR DISTRICT.

   BY ADVS.SRI.K.I.MAYANKUTTY MATHER
   SRI.P.P.RAMACHANDRAN

RESPONDENT(S):
----

1. **KANNUR DISTRICT CO-OPERATIVE BANK LTD.,**
   KOOTHUPARAMBA BRANCH, KOOTHUPARAMBA-670 643,
   REPRESENTED BY ITS BRANCH MANAGER.

2. **SENIOR MANAGER,**
   AUTHORISED OFFICER, RECOVERY DEPARTMENT,
   KANNUR DISTRICT CO-OPERATIVE BANK LTD., HEAD OFFICE,
   KANNUR-670 001.

   BY ADV. SMT.MEENA JOHN, SC

   THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 5827 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE RELEVANT PAGES OF THE LOAN PASS BOOK DATED 24.7.2012.

EXHIBIT-P2: TRUE COPY OF THE RECEIPT EVIDENCING REMITTANCE OF RS.9959/- DATED 20.9.2012.

EXHIBIT-P2(A): TRUE COPY OF THE RECEIPT EVIDENCING REMITTANCE OF RS.31900/- DATED 11.3.2013.

EXHIBIT-P3: TRUE COPY OF THE PROPOSAL FOR INITIATING ACTION UNDER SARFAESI ACT DATED 9.12.2013.

EXHIBIT-P4: TRUE COPY OF THE NOTICE UNDER SECTION 13(2) OF SARFAESI ACT ISSUED BY THE 2ND RESPONDENT DATED 26.12.2013.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

==

W.P.(C). No. 5827 of 2015

==

Dated this the 31st day of March, 2015

JUDGMENT

The petitioners, who had availed 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.P4 is the notice issued to the petitioners under Section 13(2) of the SARFAESI Act. 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 appearing on behalf of the respondents.

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.2,01,301/- together with accrued interest. Accordingly, if the petitioners remit the aforesaid amount of Rs.2,01,301/- together with accrued interest in six equal and successive monthly installments commencing from 20.04.2015, and continues 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das