IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No. 7273 of 2015 (H)

PETITIONER(S):
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1. **JAMAL.K.P, AGED 49 YEARS,**
   S/O. IBRAHIM, KHUDAN, THS ROAD
   KACHERIMEDU, CHITTUR PO, PALAKKAD
   PIN-678 101

2. **SMT. KOULATH P.P,AGED 42 YEARS**
   W/O. JAMAL KP, KHUDAN, THS ROAD, KACHERIMEDU, CHITTUR PO
   PALAKKAD, PIN-678 101

   BY ADVS.SRI.M.JITHESH MENON
   SMT.K.INDU (POURNAMI)

RESPONDENT(S):

THE CHIEF MANAGER/ AUTHORISED OFFICER,
STATE BANK OF TRAVANCORE
CHITTUR BRANCH, P.B.NO. 8,
SANA COMPLEX, CHITTUR PALAKKAD 678 101

R1 BY ADV. SRI.T.SETHUMADHAVAN (SR.)
R1 BY ADV. SRI.K.JAYESH MOHANKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 7273 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: TRUE COPYOF THE NOTICE DATED 17.6.2013

EXHIBIT P2: TRUE COPY OF THE LETTER SUBMITTED BY THE PETITIONERS DATED NIL.

EXHIBIT P3: TRUE COPY OF THE NOTICE DATED 5.2.2015.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.7273 OF 2015 (H)

Dated this the 17th day of March, 2015

J U D G M E N T

The petitioners, who had availed of two housing loans 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.P3 is the possession notice issued to the petitioners under Section 13(4) 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 for the petitioners as also 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, is stated to be Rs.1,90,000/- together with accrued interest. Accordingly, if the petitioners pay the above amount of Rs.1,90,000/- together with accrued interest in six equal and successive monthly installments commencing from 30.3.2015, 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.

(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