IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 7444 of 2015 (E)

PETITIONER(S) :
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1. SHINEESH HAMLA S.L.
   W/O.W.ALBERT, AGED 42 YEARS
   KALLUTHARA PUTHEN VEEDU, KUNNENVILA
   CHENKAL, VATTAVILA P.O.,
   THIRUVANANTHAPURAM - 695 132.

2. W. ALBERT
   S/O.WILSON NADAR, AGED 54 YEARS
   KALLUTHARA PUTHEN VEEDU, KUNNENVILA
   CHENKAL, VATTAVILA P.O.,
   THIRUVANANTHAPURAM - 695 132.

   BY ADVS.SRI.RAM MOHAN G.
   SRI.G.P.SHINOD
   SRI.MANU V.
   GOVIND PADMANAABHAN
   SRI.AJIT G. ANJARLEKAR

RESPONDENT(S) :
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1. CATHOLIC SYRIAN BANK LTD
   REPRESENTED BY ITS AUTHORISED OFFICER
   AND DEPUTY ZONAL MANAGER (OPERATIONS)
   ZONAL OFFICE, FIRST FLOOR, MALANKARA BUILDING COMPLEX
   UNIVERSITY CAMPUS P.O., PALAYAM
   THIRUVANANTHAPURAM - 695 034.

2. THE AUTHORISED OFFICER AND
   DEPUTY ZONAL MANAGER (OPERATIONS),
   CATHOLIC SYRIAN BANK LTD, ZONAL OFFICE
   FIRST FLOOR, MALANKARA BUILDING COMPLEX
   UNIVERSITY CAMPUS P.O., PALAYAM
   THIRUVANANTHAPURAM - 695 034.

3. THE MANAGER
   CATHOLIC SYRIAN BANK LTD, KOWDIAR BRANCH, VAISHNAVAM
   T.C - 5/1922 (2), TEMPLE ROAD, AMBALAMUKKU JUNCTION
   KOWDIAR P.O., THIRUVANANTHAPURAM - 695 003.

   R1 TO R3 BY ADV. SRI.C.A.JOY, SC

   THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 7444 of 2015 (E)

APPENDIX

PETITIONERS' EXHIBITS :

EXT.P-1: A TRUE PHOTOCOPY OF THE NOTICE DATED 27.2.2015 ISSUED BY JAYASREE V., ADVOCATE COMMISSIONER.

EXT.P-2: A TRUE PHOTOCOPY OF THE NOTICE NO.TVPMZ/SEC/2015 DATED 18.2.2015 ISSUED BY THE SECOND RESPONDENT.

EXT.P-3: A TRUE PHOTOCOPY OF THE AUCTION SALE NOTICE DATED 18.2.2015 ISSUED BY THE SECOND RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 7444 of 2015 (E)

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Dated this the 11th day of March, 2015

JUDGMENT

The petitioners, who had availed of an overdraft facility, a machinery loan and a vehicle 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', against the petitioners. Ext.P3 is the auction sale notice issued by the respondent Bank 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.Ram Mohan.G., the learned counsel appearing for the petitioners and Sri.C.J.Joy, the 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 them to remit the total overdue amount 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 three loans is stated to be Rs.4,70,000/-. This represents the overdue amount in respect of the machinery loan and the vehicle loan, as also the overdue interest in respect of the overdraft facility. For the purposes of regularising the overdraft facility, the petitioner will have to pay Rs.1,00,000/- more than the overdue interest and thus, the amount to be paid for regularising the overdraft facility will be Rs.2,55,000/-. Thus, if the petitioner pays a total sum of Rs.5,70,000/- in three equal and successive monthly installments commencing from 27.03.2015, and continues to pay the regular monthly installments as per the original loan schedule, in the machinery loan and the vehicle loan, then, further proceedings 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 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

AMV/11/03/