IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 9117 of 2015 (L)

PETITIONER(S):
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1. AJITH KUMAR K.B., AGED 53 YEARS,
   S/O.BHARATHAN, VIGNESWARA, 28/293,
   OLD P.W.D. WORKSHOP, MAVOOR ROAD,
   CHEVAYUR, KOZHIKODE - 689 696.

2. RAJASREE.P., AGED 50 YEARS,
   W/O.AJITH KUMAR.K.B., VIGNESWARA,
   28/293, OLD P.W.D. WORKSHOP, MAVOOR ROAD,
   CHEVAYUR, KOZHIKODE - 689 696.

BY ADV. SRI.M.S.VINEETH

RESPONDENT(S):
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1. THE AUTHORISED OFFICER,
   THE KERALA STATE CO-OPERATIVE BANK LTD.,
   KOZHIKODE REGIONAL OFFICE,
   COLOMBO COMPLEX, M.M.ALI ROAD,
   KOZHIKODE - 673 002.

2. THE BRANCH MANAGER,
   KERALA STATE CO-OPERATIVE BANK,
   KOZHIKODE BRANCH, M.M.ALI ROAD,
   KOZHIKODE - 673 002.

BY SRI.GEORGE POONTHOTTAM, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 9117 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 : **TRUE COPY OF THE LETTER NO.CRO/SRE-178/KKD/801/2014-15 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONERS DATED 27.12.2014.**

EXHIBIT P2 : **TRUE COPY OF THE PAPER PUBLICATION DATED 18.2.2015 CARRIED OUT BY THE RESPONDENTS INVITING TENDERS WITH RESPECT TO THE SALE OF THE SAID MORTGAGED PROPERTY PROPOSED ON 24.3.2015.**

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.9117 of 2015

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Dated this the 23rd day of March, 2015

JUDGMENT

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.P2 is the sale notice issued by the respondent bank. 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 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 instalments. 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 availed by the petitioners is stated to be Rs.2,66,841/- together with accrued interest. Accordingly, if the petitioners pay an amount of Rs.1,00,000/- on or before 31.03.3015 and balance amount of Rs.1,66,841/- together with accrued interest in three equal and successive monthly instalments commencing from 30.04.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioners 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 instalments, they will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns