IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 9147 of 2015 (P)

PETITIONERS:
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1. K.R. THANKAMMA, AGED 78 YEARS,
   W/O. KOCHURAMAN ACHARY, ANANDA BHAVAN,
   PERAYAM, MULAVANA P.O., KOLLAM-691 601.

2. K.N. GIREESAPRASAD, AGED 50 YEARS,
   S/O. KOCHURAMAN ACHARY, ANANDA BHAVAN,
   PERAYAM, MULAVANA P.O., KOLLAM-691 601.

3. K.N. BABURAJ, AGED 52 YEARS,
   S/O. KOCHURAMAN ACHARY, ANANDA BHAVAN,
   PERAYAM, MULAVANA P.O., KOLLAM-691 601.

BY ADVS.SRI.R.RAJESH (PULLIKADA),
SRI.K.G.ANIL BABU.

RESPONDENTS:
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1. THE AUTHORIZED OFFICER,
   KOLLAM DISTRICT CO-OPERATIVE BANK,
   KOLLAM-691 001.

2. THE MANAGER,
   KOLLAM DISTRICT CO-OPERATIVE BANK,
   KUNDARA BRANCH, KUNDARA-691 501.

BY ADV. SRI.T.R.HARIKUMAR, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 9147 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1- THE TRUE COPY OF THE NOTICE UNDER SARFAESI ACT DATED 26-02-2015.

EXHIBIT P2- THE TRUE COPY OF THE PASS BOOK.

EXHIBIT P3- THE TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT DATED 12-02-2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.9147 OF 2015 (P)

Dated this the 25th day of March, 2015

J U D G M E N T

The petitioners, who had availed of a loan from the respondent bank, defaulted in repayment of the loan amounts. 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 possession notice issued to the petitioners under 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 amount outstanding from the petitioners to the respondent bank, is stated to be Rs.1,64,000/- together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.1,64,000/- together with accrued interest in six equal and successive monthly installments commencing from 10.4.2015, then the further proceedings initiated against them by the respondent bank shall be kept in abeyance.
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> (ii) It is further 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