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. 9509 of 2015 (K)

PETITIONER(S):
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1. AUGUSTINE JACKSON DAURAVOA,
   JACK VILLA, 40 FEET ROAD, NAMBIAPURAM,
   PALLURUTHY, KOCHI-682 006.

2. GREEN JACKSON DAURAVOA,
   W/O. AUGUSTINE JACKSON DAURAVOA,
   JACK VILLA, 40 FEET ROAD, NAMBIAPURAM,
   PALLURUTHY, KOCHI-682 006.

BY ADVS.SRI.K.R.AVINASH (KUNNATH),
SRI.ABDUL RAOOF PALLIPATH,
SRI.C.H.ABDUL RASAC.

RESPONDENT(S):
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1. THE AUTHORIZED OFFICER,
   SUNDARAM BNP PARIBAS HOME FINANCE LTD.,
   SUNDARAM TOWERS, 46, WHITE ROAD,
   CHENNAI-600 014.

2. SUNDARAM BNP PARIBAS HOME FINANCE LTD.,
   2ND FLOOR, ELEZABETH ALEXANDER MEMORIAL BUILDING,
   OPPOSITE MARINE DRIVE, ERNAKULAM- 682 031,
   REPRESENTED BY THE BRANCH MANAGER.

BY ADV. SRI.VARGHESE C.KURIAKOSE.

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. 9509 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1: THE TRUE COPY OF THE NOTICE DATED 01.05.2014 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P2: TRUE COPY OF THE NOTICE DATED 17.03.2015 ISSUED BY THE ADV. COMMISSIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.9509 OF 2015 (K)

Dated this the 25th day of March, 2015

<u>J U D G M E N T</u>

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.P2 is the notice issued by the Advocate commissioner pursuant to the direction issued by the Chief Judicial Magistrate Court, Ernakulam. 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 availed by the petitioners, is stated to be Rs.5,41,546/- together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.5,41,546/- together with accrued interest in five equal and successive monthly installments commencing from 10.4.2015, 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.
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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