IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 9899 of 2015 (J)

PETITIONER(S):
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1. DEEPESH, AGED 32 YEARS,
   S/O. BALAKRISHNAN, AVIKKAL HOUSE, TEMPLE GATE P.O,
   THALASSERY.

2. BALAKRISHNAN A, S/O. MADHAVAN,
   AVIKKAL HOUSE, TEMPLE GATE P.O,
   THALASSERY.

BY ADVS.SRI.GEORGE SEBASTIAN
SRI.EBY P.PAUL

RESPONDENT(S):
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1. THE AUTHORISED OFFICER,
   UCO BANK, BHATSON BUILDING, M.M.ROAD, THALASSERY - 670 101

2. THE BRANCH MANAGER,
   UCO BANK, BHATSON BUILDINGS, M.M.ROAD
   THALASSERY.

R BY ADV. SRI.GEORGE KARITHANAM VARGHESE,SC,UCO B

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AD/

WP(C).No. 9899 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1- A TRUE COPY OF THE DISABILITY CERTIFICATE DATED 6-6-2012.

EXHIBIT P2- A TRUE COPY OF THE POSSESSION NOTICE DATED 10-2-2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.9899 of 2015

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Dated this the 9th day of April, 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 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 possession notice issued 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 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.5,60,000/- together with accrued interest. Accordingly, if the petitioners pay the aforesaid amount of Rs.5,60,000/- together with accrued interest in six 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 them from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns