IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

WP(C).No. 10071 of 2015 (H)

PETITIONER(S):
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1. **KENNETH JOE CLEETUS,**
   KAKKERY HOUSE, ARTHUNGAL.P.O.,
   CHERTHALA, ALAPPUZHA-688 530

2. **JOSEPH CLEETUS, KAKKERY HOUSE,**
   ARTHUNGAL.P.O., CHERTHALA, ALAPPUZHA-688 530

BY ADV. SRI.JOSHI N.THOMAS

RESPONDENT(S):
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1. **THE KERALA STATE CO-OPERATIVE BANK LTD.,**
   ALAPPUZHA BRANCH, P.B.NO.103, STADIUM WARD,
   ALAPPUZHA, REPRESENTED BY ITS SENIOR MANAGER-688 530

2. **THE AUTHORIZED OFFICER,**
   THE KERALA STATE CO-OPERATIVE BANK LTD.,
   REGIONAL OFFICE, ANANDHI BUILDING, PULLEPADY JUNCTION,
   CHITTOOR ROAD, ERNAKULAM, KOCHI-682 035.

R1 & R2 BY SRI.GEORGE POONTHOTTAM, SC, KERALA STATE CO.OP BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).NO.10071/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE LOAN SANCTIONING ORDER KSCB/ABR/MORT LOAN/2515/2010-11 DATED 3/8/10 ISSUED BY THE 1ST RESPONDENT

P2 COPY OF THE LETTER NO.ERO/202/SRB 1362/ALPY/883/2014-15 DATED 17/12/2014 ISSUED BY THE 2ND RESPONDENT

P3 COPY OF THE LETTER NO.ERO/202/SRE 1362/ALPY/884/2014-15 DATED 17/12/2014 ISSUED BY THE 2ND RESPONDENT

P4 COPY OF THE LETTER DATED 11/3/2015 SUBMITTED BY THE 2ND PETITIONER.

P5 COPY OF THE LETTER NO.ERO/202/SRE 1362/ALPY/1128/2014-15 DATED 18/3/2015 ISSUED BY THE 2ND RESPONDENT

P6 COPY OF THE PAPER PUBLICATION DATED 20/3/2015 APPEARED IN MATHRUBHOOMI DAILY.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No.10071 of 2015 (H)

...

Dated this the 27th day of March, 2015

JUDGMENT

The 1st petitioner, who had availed of a mortgage loan from the 1st respondent, and the 2nd petitioner, who stood as a guarantor and created equitable mortgage on their property, 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 petitioner. In the writ petition, the petitioners impugn the steps initiated by the respondents for recovery of the loan amounts.

2. Heard Sri.Joshi N.Thomas, learned counsel appearing for the petitioners and Sri.George Poonthottam, learned Standing counsel appearing for the respondents.

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 petitioners is to permit them to remit the total amount outstanding to the respondents 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 is stated to be Rs.1,07,800/- together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.1,07,800/- together with accrued interest, on or before 30.04.2015, and continue to pay the regular monthly installments as per the original loan schedule, then, the recovery steps initiated against them 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 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/28/03/