**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937**

**WP(C).No. 10331 of 2015 (N)**

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**PETITIONER(S):**

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**1.PRABHU, AGED 43 YEARS,**
**S/O.RAMAKRISHNAN, RESIDING AT**
**MANINANDIRAM, PEROOR VILLAGE,**
**KOTTAYAM DISTRICT.**

**2.SINDHU, W/O.PRABHA, RESIDING**
**AT MANINANDIRAM, PEROOR VILLAGE,**
**KOTTAYAM DISTRICT.**

**BY ADVS.SRI.K.A.HASHIM**
**SRI.JABIN MUHAMMED**

**RESPONDENT(S):**

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**1.THE KOTTAYAM CO-OPERATIVE URBAN BANK LTD.NO.421,**
**REPRESENTED BY ITS SECRETARY, HEAD OFFICE, THIRUNAKKARA,**
**KOTTAYAM PIN 686 001.**

**2.THE BRANCH MANAGER, KOTTAYAM CO-OPERATIVE**
**URBAN BANK LTD. NO.421, ETTUMANUR, BRANCH 686 631.**

**3.SMT.S.BEENAKUMARI, AUTHORISED OFFICE,**
**KOTTAYAM CO-OPERATIVE URBAN BANK LTD. NO.421,**
**KOTTAYAM PIN 686 001.**

**R BY SRI.SURIN GEORGE IPE, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

W.P.(C).NO.10331/2015

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P1: COPY OF THE DEMAND NOTICE NO.2392 LRS/1012/2014-15 KCUB DATED 10.12.2014 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONERS.**

**EXT.P2: COPY OF THE REPRESENTATION DTED 24.3.2015 FILED BY THE PETITINOER BEFORE THE 1ST RESPONDENT.**

**RESPONDENTS EXHIBITS: NIL.**

**//TRUE COPY//**

**P.S. TO JUDGE**

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C).NO.10331 OF 2015 (N)**

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**Dated this the 30th 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 overdue amount, in respect of the loan availed by the petitioners, is stated to be Rs.4,37,174/- together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.4,37,174/- together with accrued interest in five equal and successive monthly installments commencing from 20.4.2015, 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