IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 11338 of 2015 (N)

PETITIONER(S):

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1. MINIMOL S. AGED 42 YEARS
W/O. SUKHALAL, KUNNUVILA HOUSE
VAKKANADU, KOLLAM DISTRICT
PIN - 691509

2. SUKHALAL SARMA, AGED 44 YEARS
S/O. SAHADEVAN, KUNNUVILA HOUSE
VAKKANADU, KOLLAM DISTRICT
PIN - 690 509

BY ADVS.SRI.BIMAL K.NATH
SRI.SREEVALSAN.V
SMT.M.K.SHIMI
SRI.D.SREENATH

RESPONDENT(S):

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1 ASST GENERAL MANAGER, STATE BANK OF INDIA
RASMECCC (10212), 11ND FLOOR
"RAVI'S ARCADE", NEAR IRON BRIDGE,
KOLLAM- 691 013

2 BRANCH MANAGER, STATE BANK OF INDIA
PRS BUILDING, MARKET JUNCTION
KOTTARAKKARA, KOLLAM - 691 013

R BY SRI.R.S.KALKURA, STANDING COUNSEL, SBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 11338 of 2015 (N)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	**:**	**TRUE COPY OF THE NOTICE DATED 11.11.2014 ISSUED BY THE 1ST RESPONDENT.**
EXHIBIT P2	**:**	**TRUE COPY OF THE POSSESSION NOTICE DATED 20.02.2015 ISSUED BY THE BANK.**

RESPONDENT'S EXHIBITS:
-------------------------------------- **NIL**

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 11338 of 2015

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Dated this the 7th day of April, 2015

JUDGMENT

The petitioners, who had availed 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 notice issued to the petitioners under Section 13(2) 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. Counsel for the respondent bank would submit that this is a case where the petitioners had obtained a loan, by offering a particular property as security for the loan advanced to him, and indicating that he would be putting up a construction on the said property, and later put up the construction in another property, thereby misleading the bank into believing that the property that was offered to them as security, was the property on which the petitioner was going to effect improvements. It is submitted by counsel for the respondent, therefore, that this Court should not show any leniency to the petitioner in the matter of granting installments.

3. I have heard the learned counsel appearing on behalf of the petitioners as also the learned Standing Counsel appearing on behalf of the respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with the following directions:-

(i) The total outstanding amount, in respect of the loan, is stated to be Rs.14,70,813/- together with accrued interest. Accordingly, if the petitioners remit the aforesaid amount of Rs.14,70,813/- together with accrued interest in ten equal and successive monthly installments commencing from 30.04.2015, 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

das