IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).NO. 12055 OF 2015 (F)

PETITIONER(S):

1. K.VIVEKANANDAN, S/O.KUNJURAMAN, AGED 65 YEARS, SARADAVILASAM MAIDANAM, VARKALA P.O AND VILLAGE, THIRUVANANTHAPURAM

2. M.THANKAMONI, W/O.VIVEKANANDAN , AGED 61 YEARS, SARADAVILASAM MAIDANAM, VARKALA P.O AND VILLAGE, THIRUVANANTHAPURAM
3. KALA.V.T. D/O.K.VIVEKANANDAN , AGED 25 YEARS,-DO-

BY ADVS.SRI.K.BALACHANDRAN (VARKALA)
SRI.T.S.ABDUL KHADER

RESPONDENT(S):

1. STATE OF KERALA,REPRESENTED BY ITS SECRETARY, REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001
2. SOUTH INDIAN BANK LTD., REPRESENTED BY ITS CHIEF MANAGER, REGIONAL OFFICE 3RD FLOOR, YWCA BUILDING, STATUTE, M.G.ROAD, THIRUVANANTHAPURAM
3.SOUTH INDIAN BANK LTD. REPRESENTED BY ITS BRANCH MANAGER, 11/439, MAIDANAM, VARKALA-695 141

BY GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA
R BY SRI.K.K.JOHN,SC,SOUTH INDIAN BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1.TRUE COPY OF THE PASS BOOK ECS.A/C NO.0139655000 DATED 01.12.2009 ISSUED TO V.T.SIVAKALA

EXT.P2: TRUE COPY OF THE STATEMENT OF ACCOUNT FOR THE PERIOD FROM 30.11.2009 TO 23.03.2015 OF SOUTH INDIAN BANK, VARKALA BRANCH ISSUED IN THE NAME OF SIVAKLALA V.T.

EXT.P3: PAPER PUBLICATION IN KERALA KAUMUDI DAILY DATED15.02.2015 BY 1ST RESPONDENT BANK UNDER RULE 3(1) OF SECURITY INTEREST(ENFORCEMENT RULES, 2002)

RESPONDENTS EXHIBITS:NIL

TRUE COPY

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.12055 of 2015

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Dated this the 10th day of April, 2015

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

The petitioners, who are guarantors of a loan availed by the eldest daughter of the 1st petitioner, 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 defaulted by the borrower. 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, the learned Standing counsel for the respondent bank and also the learned Government Pleader.

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 1st petitioners daughter is stated to be Rs.4,92,008/- together with accrued interest. Accordingly, if the petitioners pay the aforesaid amount of Rs.4,92,008/- together with accrued interest in eight 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