IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

WP(C).No. 12412 of 2015 (B)

PETITIONER(S):
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1. JULIE THAMBAN,
   W/O.THAMBAN, VALAPPAKATH HOUSE, NEAR M.P.L OIL MILL
   CHOWANNUR P.O, KUNNAMKULAM, THRISSUR DISTRICT.

2. THAMBAN V.I.,
   S/O.IPE VARGHESE, VALAPPAKATH HOUSE,
   NEAR M.P.L. OIL MILL, CHOWANNUR P.O, KUNNAMKULAM,
   THRISSUR DISTRICT.

   BY ADVS.SRI.SANTHEEP ANKARATH
   SRI.Y.JAFAR KHAN

RESPONDENT(S):
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1. CANARA BANK,
   KUNNAMKULAM BRANCH,
   KUNNAMKULAM, THRISSUR DISTRICT,
   PIN 680 503, REPRESENBTED BY ITS MANAGER.

2. THE AUTHORISED OFFICER,
   CANARA BANK, KUNNAMKULAM BRANCH, KUNNAMKULAM
   THRISSUR DISTRICT, PIN 680 503

   BY SRI.PAULY MATHEW MURICKEN,SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 12412 of 2015 (B)
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APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1. **TRUE COPY OF NOTICE NO.SARF/HL/4232 DATED 6.12.2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONERS UNDER SEC.13(2) OF THE SARFAESI ACT.**

EXT.P2. **TRUE COPY OF POSSESSION NOTICE DATED 18.3.2015 ISSUED BY THE 2ND RESPONDENT.**

EXT.P3. **TRUE COPY OF REPRESENTATION DATED 30.7.2014 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 1ST RESPONDEENT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.12412 of 2015

Dated this the 21st day of July, 2015

J U D G M E N T

The petitioners availed a housing loan and an overdraft facility from the respondent Bank. The term of the housing loan is not yet over. However, the term of the overdraft facility is over. In view of the fact that both the loans are linked together, the Bank initiated 'SARFAESI' proceedings.

2. The petitioners seek indulgence of this Court to wipe off the liability under the overdraft facility by way of easy installments and to direct the Bank for regularising the housing loan account.

3. The learned Standing Counsel for the Bank opposes the prayer of the petitioners and submits that, the petitioners have closed down their business.

4. Considering the facts and circumstances, this writ petition is disposed of with the following directions :

1. The petitioners shall remit an amount of ₹1,75,000/- (Rupees One lakh Seventy five thousand only) along with regular EMI of housing loan for the month, on or before 20.08.2015.
2. If the petitioners comply with the above condition, the petitioners are permitted to clear the liability towards overdraft facility in six equal monthly installments along with regular EMIs towards the housing loan account.

3. If the petitioners clear the entire liability towards the overdraft facility as stipulated above, the Bank shall regularise the housing loan account of the petitioners.
4. If the petitioners fail to honour any one of the conditions stipulated above, the Bank is free to proceed against them, in accordance with law.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV