IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 19TH DAY OF MAY 2015/29TH VAISAKHA, 1937

WP(C).No. 14693 of 2015 (J)

PETITIONER(S):
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1. SURESH KUMAR K., AGED 48 YEARS,
   S/O.LATE KRISHNASWAMY IYER, 'SUDARSHANAM',
   ULLOOR VILLAGE, THIRUVANANTHAPURAM.

2. KANTHIMATHI AMMAL, AGED 72 YEARS,
   W/O.LATE KRISHNASWAMY IYER, 'SUDARSHANAM',
   ULLOOR VILLAGE, THIRUVANANTHAPURAM.

3. SUJATHA K., AGED 41 YEARS,
   D/O.LATE KRISHNASWAMY IYER, 'SUDARSHANAM',
   ULLOOR VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.AYYAPPAN SANKAR

RESPONDENT :

AUTHORIZED OFFICER,
THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, EAST FORT, THIRUVANANTHAPURAM-695 023.

BY ADV. SRI.T.R.HARIKUMAR, SC, THIRUVANANTHAPURAM
DIST.CO.OP.BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.14693/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE DEMAND NOTICE DATED 19/10/2013 ISSUED UNDER SECTION 13(2) OF THE SARFAESI ACT.

P2 COPY OF THE POSSESSION NOTICE DATED 22/1/2014 ISSUED UNDER SECTION 13(4)

P3 COPY OF THE SALE NOTICE DATED 16/4/2015 INTIMATING SALE SCHEDULED ON 21/5/2015.

P4 COPY OF THE NOTICE INVITING TENDERS FOR THE AUCTION SALE PUBLISHED IN MATHRUBHUMI MALAYALAM DAILY DATED 14/4/2015.

RESPONDENT'S EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.14693 of 2015

Dated this the 19th day of May, 2015

J U D G M E N T

The 1st petitioner, who had availed of 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.P1 is the demand notice issued to the petitioners under Section 13(2) of the SARFAESI Act. Ext.P2 is the possession notice and Ext.P3 is the sale notice. 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, to the respondent bank, is stated to be approximately Rs.5,50,000/- together with

accrued interest. Accordingly, if the petitioners remit the above amount of Rs.5,50,000/-, together with accrued interest, in ten equal and successive monthly installments commencing from 10.6.2015, and continues to keep up the monthly repayments as per the original loan schedule, then all further proceedings for recovery of the amounts including further proceedings pursuant to Ext.P3 notice, 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.

(iii) On the petitioners paying the first installment as directed above, the respondent bank shall cause a statement of account to be furnished to the petitioners so as to enable them to discharge the balance liability within the time stipulated in the judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AV