IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

WP(C).No. 18482 of 2015 (I)

PETITIONER(S) :
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1. SURESH BABU,
S/O.SREEDHARAN, DEVAMATHA HOUSE, NEDUNOLAM P.O.,
KOLLAM DISTRICT.

2. LEELA SURESH,
W/O.SURESH BABU, DEVAMATHA HOUSE, NEDUNGOLAM P.O.,
KOLLAM DISTRICT.

BY SMT.SUMATHI DANDAPANI(SENIOR ADVOCATE)
ADVS. SRI.MILLU DANDAPANI
SRI.PREMCHAND R.NAIR

RESPONDENT(S) :
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1. THE AUTHORIZED OFFICER,
CHIEF MANAGER, STRESS ASSETS RESOLUTION CENTRE,
STATE BANK OF TRAVANCORE, REGIONAL OFFICE,
ARPAN TOWERS, KADAPPAKKADA, KOLLAM -691 008.

2. STATEBANK OF TRAVANCORE,
HAVING REGISTERED OFFICE AT POOJAPURA P.O.,
THIRUVANANTHAPURAM -695 012, AND BRANCH OFFICE AT
CHATHANNOOR AT KOLLAM DISTRICT, KERALA STATE,
REPRESENTED BY ITS BRANCH MANAGER.

BY ADV. SRI.R.S.KALKURA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

Msd.

WP(C).No. 18482 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT-P1: TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT UNDER SECTION 13 (4) OF THE SARFAESI ACET DATED 08/07/2013.

EXHIBIT-P2: TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDNT TO THE OIL COMPANIES SUCH AS BPCL, HPCL AND IOCL DATED 06/07/2013.

EXHIBIT-P3: TRUE COPY OF THE INTERIM ORDER DATED 17/07/2013 I.A.NO.2089 OF 2013 IN S.A 522 OF 2013 ON THE FILES OF DEBTS RECOVERY TRIBUNAL, ERNAKULAM.

EXHIBIT-P4: TRUE COPY OF NOTICES DATED 26/05/2014 ISSUED BY THE ADVOCATE COMMISSIONER, RECEIVED BY THE PETITIONERS ON 30/05/2014.

EXHIBIT-P5: TRUE COPY OF THE NOTICES DATED 26/05/2014 ISSUED BY THE ADVOCATE COMMISSIONER RECEIVED BY THE PETITIONERS ON 30/05/2014.

EXHIBIT-P6: TRUE COPY OF THE LOAN ACCOUNT STATEMENT DATED 06/05/2014 PERTAINS TO THE A/C NO. 67132894068.

EXHIBIT-P7: TRUE COPY OF THE LOAN ACCOUNT STATEMENT DATED 06/05/2014 PERTAINS TO THE A/C NO. 67092706011

EXHIBIT-P8: TRUE COPY OF THE LOAN ACCOUNT STATEMENT DATED 06/05/2014 PERTAIN TO THE A/C NO. 67090085221.

EXHIBIT-P9: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 02.06.2014, RENDERED IN W.P.(C).NO.13873/2014.

EXHIBIT-P10: TRUE COPY OF THE NOTICE DATED 21/01/2015 ISSUED BY THE 2ND RESPONDENT IN CONNECTION WITH LOAN NO. 67132894068.

EXHIBIT-P11: TRUE COPY OF THE NOTICE DATED 21/01/2015 ISSUED BY THE 2ND RESPONDENT IN CONNECTION WITH THE LOAN NO. 6792706011.

EXHIBIT-P12: TRUE COPY OF THE NOTICE DATED 21/01/2015 ISSUED BY THE 2ND RESPONDENT IN CONNECTION WITH THE LOAN NO. 67090085221.

EXHIBIT-P13: TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 19/05/2015 INTIMATING THE ORDER DATED 10/12/2013 OF THE LEARNED CHIEF JUDICIAL MAGISTRATE, KOLLAM IN C.M.P NO. 8994/2013.

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EXHIBIT-P14: TRUE COPY OF THE ORDER DATED 16/06/2015 IN C.M.P NO. 8994/2013.

RESPONDENT(S)' EXHIBITS :

EXHIBIT R1(A): TRUE COPY OF THE INVENTORY PREPARED BY THE ADVOCATE COMMISSIONER, DATED 16.06.2015.

EXHIBIT R1(B): TRUE COPY OF THE STATEMENT OF ACCOUNT IN RESPECT OF TERM LOAN ACCOUNT NO.67090085221, FOR THE PERIOD FROM 21.08.2009 TO 28.02.2015, ALONG WITH INTEREST-CALCULATION SHEET.

EXHIBIT R1(C): TRUE COPY OF THE STATEMENT OF ACCOUNT IN RESPECT OF TERM LOAN ACCOUNT NO.67132894068, FOR THE PERIOD FROM 27.10.2010 TO 28.02.2015, ALONG WITH INTEREST CALCULATION SHEET.

EXHIBIT R1(D): TRUE COPY OF THE STATEMENT OF ACCOUNT IN RESPECT OF TERM LOAN ACCOUNT NO.67092706011, FOR THE PERIOD FROM 29.09.2009 TO 31.03.2015, ALONG WITH INTEREST-CALCULATION SHEET.

EXHIBIT R1(E): TRUE COPY OF THE STATEMENT OF ACCOUNTS IN RESPECT OF CASH CERDIT ACCOUNT NO.67132924695, FOR THE PERIOD FROM 27.10.2010 TO 31.03.2015, ALONG WITH INTEREST-CALCULATION SHEET.

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.18482 of 2015

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Dated this the 6th day of July, 2015

JUDGMENT

Petitioners, impugning dispossession under the SARFAESI proceedings, have approached this Court. The secured asset includes residential building. This Court by interim order dated 19.6.2015 ordered the petitioners to remit Rs.10 lakhs within a week and directed the Bank to handover the possession of the residential building. In compliance of the above order, the petitioners deposited Rs.10 lakhs and the Bank handed over the possession of the residential building to the petitioners.

2. The petitioners have certain disputes regarding the quantification of the overdue amount. The petitioners submit that they are prepared to clear the overdue amount and the Bank may be directed to regularise the loan account.

3. In this matter, a detailed counter affidavit has been filed by the respondents. It is stated in the counter affidavit that the Bank have narrated the present overdue amount in the different

loan accounts. It is submitted that after the adjustment of Rs.10 lakhs, more than Rs.35 lakhs is due as on 25.6.2015.

4. The petitioners have already approached the Debts Recovery Tribunal and the matter is pending before the Debts Recovery Tribunal as S.A.No.522/2013.

In that view of the matter, I am of the view, any further directions in the matter in the light of the disputes as above, can only be resolved through the proceedings of the Debts Recovery Tribunal. Accordingly, this writ petition is disposed of. The interim order in relation to the residential building will continue for a further period of two months. The Bank is free to proceed inrespect of other secured asset in accordance with law.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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