IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WP(C).No. 26225 of 2015 (C)

PETITIONER(S):
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1. SREE VALLABHA PRASAD, S/O.JANARDHANAN PILLAI,
AGED 60 YEARS, SREEMANGALAM HOUSE,
IRINGLE P.O., IRINGOLE, KUNNATHNAD, PERUMBAVOOR,
ERNAKULAM-683 548.

2. RENUKADEVI, W/O.SREE VALLABHA PRASAD,
AGED 50 YEARS, SREEMANGALAM HOUSE,
IRINGLE P.O., IRINGOLE, KUNNATHUNAD, PERUMBAVOOR,
ERNAKULAM-683 548.

BY ADV. SRI.PAUL K.VARGHESE.

RESPONDENT(S):
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1. DISTRICT CO-OPERATIVE BANK LTD.,
ERNAKULAM-682 030.

2. GIRISH R.,
ADVOCATE COMMISSIONER, DISTRICT COURT,
ERNAKULAM-682 011.

3. MOHAMMED PILLAI, ARIMBASSERY (H),
SOUTH VAZHAKULAM P.O., S. EXHIPURAM,
KUNNATHUNADU, ERNAKULAM-683 548.

R1 BY ADV. SMT.I.SHEELA DEVI, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 26225 of 2015 ©

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1. **A TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 1ST RESPONDENT BANK TO THE PETITIONER DATED 20/02/2015.**

EXT.P2. **TRUE COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT BANK TO THE PETITIONER DATED 12/05/2015.**

EXT.P3. **TRUE COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT BANK TO THE PETITIONER DATED 04/06/2015.**

EXT.P4. **TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT ADVOCATE COMMISSIONER SRI.GIRISH R. TO THE PETITIONERS DATED 17/08/2015.**

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

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 26225 of 2015
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Dated this the 7th day of September, 2015

JUDGMENT

The petitioners, who have availed a housing 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.P4 is the notice issued to the petitioners by the Advocate Commissioner. 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 as also the learned Standing Counsel appearing on behalf of the respondents.

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 him 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, is stated to be Rs.10,66,000/- together with accrued interest. Accordingly, if the petitioners remit the aforesaid amount of Rs.10,66,000/- together with accrued interest in six equal and successive monthly installments commencing from 30.09.2015, and continue to keep up the regular installment payments as per the original loan schedule, 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