IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

WP(C).No. 26453 of 2015 (F)

PETITIONER(S):
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1. SUJA VISWASAM,
   W/O. THOMAS YOHANNAN, THOMSON VILLA,
   CHENGAMANAD JUNCTION P.O.,
   KOLLAM DISTRICT, PIN-691 557.

2. THOMAS YOHANNAN,
   THOMSON VILLAGE, CHENGAMANAD JUNCTION P.O.,
   KOLLAM DISTRICT, PIN-691 557.

   BY ADVS.SRI.V.M.KURIAN,
   SRI.MATHEW B. KURIAN,
   SRI.K.T.THOMAS.

RESPONDENT(S):
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1. THE AUTHORISED OFFICER,
   SUNDARAM BNP PARIBAS HOME FINANCE LTD,
   1ST FLOOR, KUNNATH BUILDINGS,
   NEAR ST. PETER'S JUNCTION, PATHANAMTHITTA P.O.,
   PATHANAMTHITTA DISTRICT, PIN-689 645.

2. SUNDARAM BNP PARIBAS HOME FINANCE LTD.,
   1ST FLOOR, KUNNATH BUILDINGS, NEAR ST. PETER'S JUNCTION,
   PATHANAMTHITTA P.O., PATHANAMTHITTA DISTRICT,
   PIN-689 645, REPRESENTED BY ITS AUTHORISED OFFICER.

3. NATIONAL HOUSING BANK, CORE 5A,
   INDIA HABITAT CENTRE, 3RD -5TH FLOOR,
   LODHI ROAD, NEW DELHI-110 003,
   REPRESENTED BY ITS CHAIRMAN.

   R1 & R2 BY ADV. SRI.VARGHESE C.KURIAKOSE.

   THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 26453 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1: TRUE COPY OF THE LOAN REPAYMENT SCHEDULE.

EXT.P2: TRUE COPY OF THE NOTICE DATED 01/12/2014 ISSUED BY 2ND RESPONDENT.

EXT.P3: TRUE COPY OF THE POSSESSION NOTICE DATED 17/07/2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.26453 of 2015

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Dated this the 18th day of November 2015

JUDGMENT

The petitioners, who had availed a loan from the respondent company, defaulted in repayment of the same. Consequently, the respondent company 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.P3 is the possession notice issued to the petitioners under the SARFAESI Act. In the writ petition, the petitioners impugn the steps initiated by the respondent company 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 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, as on 16.11.2015 is stated to be Rs.19,78,901/-. Accordingly, if the petitioners remit the aforesaid amount of Rs.19,78,901/- together with accrued interest, from 16.11.2015, in six equal and successive monthly installments, commencing from 10.12.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against them by the respondents 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 respondents will be free to continue the recovery proceedings against them from the stage at which they presently stand.

(iii) It is made clear that nothing in this judgment shall stand in the way of the petitioners approaching the respondents with an application for One Time Settlement scheme and the respondents from considering the same, in accordance with law.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/