IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 26809 of 2015 (A)

PETITIONER(S):

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1. THOMAS V.A.,
   VADAKKETHADATHIL HOUSE, SANTHINAGAR P.O.,
   THAMARASSERY, CALICUT- 673 573.

2. BEENA A.M.,
   VADAKKETHADATHIL HOUSE, SANTHINAGAR P.O.,
   THAMARASSERY, CALICUT -673 573.

   BY ADVS.SRI.P.V.KUNHIKRISHNAN,
   SRI.P.V.ANOOP.

RESPONDENT(S):

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1. M/S SUNDARAM BNP PARIBAS HOME FINANCE LIMITED,
   FORMERLY KNOWN AS (SUNDARAM HOME FINANCE LIMITED),
   SUNDARAM TOWERS, 4TH FLOOR, NO.46,
   WHITES ROAD, CHENNAI- 600 014.

2. AUTHORISED OFFICER,
   M/S. SUNDARAM BNP HOME FINANCE LIMITED
   AS FORMERLY KNOWN (SUNDARAM HOME FINANCE LIMITED),
   SUNDARAM TOWERS, 4TH FLOOR, NO.46,
   WHITES ROAD, CHENNAI -600 014.

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

   THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 26809 of 2015 (A)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1. COPY OF THE PETITION DATED 14.01.2015 FILED UNDER SECTION 14 OF THE SARFAESI ACT BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE.

EXHIBIT P2. COPY OF THE REPORT SUBMITTED BY THE ADVOCATE COMMISSIONER ALONG WITH THE MAHZAR AND INVENTORY PREPARED BY HIM DATED NIL.

EXHIBIT P3. COPY OF THE ORDER DATED 03.07.2015 IN CMP.130/2015 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.26809 OF 2015 (A)

Dated this the 13th day of November, 2015

J U D G M E N T

The petitioners, who had availed of two loans from the respondent company, defaulted in repayment of the same. Consequently, the respondent 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.P2 is the notice issued by the Advocate Commissioner. It is stated that subsequently the respondent company has also taken possession of the secured assets. 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 for the petitioners as also the learned Standing counsel appearing for the respondent company.

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 respondent 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 availed by the petitioners, is stated to be Rs.21,52,261/- together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.21,52,261/- together with accrued interest in twelve equal and successive monthly installments commencing from 30.11.2015, and continue to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against them by the respondent company shall be kept in abeyance.
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> (ii) It is further 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 will be free to continue the recovery proceedings against them from the stage at which they presently stand.
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> (iii) The respondent company shall furnish the petitioners with an uptodate statement of accounts within a period of one week from the date of receipt of a copy of this judgment, so as to enable the

petitioners to effect further payments as per the directions in this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/13/11/15