IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

WP(C).No. 27274 of 2015 (H)

PETITIONER(S) :

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1. M/S. KOYAS AUTOMOBILES
   1/1597 D, MARIDIAN, MANSON
   NEAR MALAYALA MANORAMA,
   NADAKKAVU, CALICUT, PIN-673 011
   REPRESENTED BY ITS MANAGING PARTNER
   A.P. KOYAKUTTY.

2. MR. A.P.THAJUL HAQUE
   AGED 33 YEARS, S/O.MUHAMMED KOYA
   (PARTNER OF M/S.KOYAS AUTOMOBILES),
   PADATH HOUSE, CHALIYAM POST, CALICUT,
   PIN - 673 302.

3. MR. A.P.MOHAMMED RAFI
   AGED 35 YEARS, S/O.MUHAMMED KOYA
   (PARTNER OF M/S. KOYAS AUTOMOBILES),
   PADATH HOUSE, CHALIYAM POST, CALICUT,
   PIN - 673 302.

4. MR. A.P. MIHIRAJUL HAQUE
   AGED 37 YEARS, S/O.MUHAMMED KOYA
   (PARTNER OF M/S.KOYAS AUTOMOBILES),
   PADATH HOUSE, CHALIYAM POST, CALICUT,
   PIN - 673 302.

5. MR.A.P.KOYAKUTTY
   AGED 43 YEARS, S/O.MUHAMMED KOYA
   (MANAGING PARTNER OF M/S. KOYAS AUTOMOBILES),
   PADATH HOUSE, CHALIYAM POST, CALICUT,
   PIN - 673 302.

BY ADVS.SRI.P.V.KUNHIKRISHNAN
SRI.G.ANEESH
SRI.P.V.ANOOP

RESPONDENT(S) :
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1. BANK OF BARODA
   MAIN BRANCH, CITY TOWER,
   NOW FUNCTIONING AT HOLYDAY CITY CENTRE
   BANK ROAD, KOZHIKODE
   REPRESENTED BY ITS CHIEF MANAGER/AUTHORIZED OFFICER
   PIN-673 001.

2. CHIEF MANAGER/AUTHORISED OFFICER
   BANK OF BARODA, MAIN BRANCH, CITY TOWER
   CITY TOWER, I.G.ROAD, KOZHIKODE
   NOW FUNCTIONING AT HOLYDAY CITY CENTRE, BANK ROAD
   KOZHIKODE, PIN -673 001.

   R1 & R2 BY STANDING COUNSEL SRI.DEVAN RAMACHANDRAN

   THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 27274 of 2015 (H)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1 -	**TRUE COPY OF THE NOTICE DATED 13.04.2015 FROM THE 2ND RESPONDENT UNDER SECTION 13(2) OF THE SARFAESI ACT.**
EXT. P1(a)-	**TRUE COPY OF THE NOTICE DATED 13.04.2015 FROM THE 2ND RESPONDENT UNDER SECTION 13(2) OF THE SARFAESI ACT.**
EXT. P1(b) -	**TRUE COPY OF THE NOTICE DATED 13.04.2015 FROM THE 2ND RESPONDENT UNDER SECTION 13(2) OF THE SARFAESI ACT.**
EXT. P2 -	**TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 01.09.2015.**
EXT. P3 -	**TRUE COPY OF THE PETITION DATED 01.08.2015 FILED UNDER SECTION 14 OF THE SARFAESI ACT BY THE 1ST RESPONDENT WHICH IS NUMBERED AS CMP NO.1622/2015 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE.**
EXT. P4 -	**A COPY OF THE STATEMENT OF ACCOUNTS OF THE PETITIONER'S FIRM FOR THE PERIOD FROM 01.04.2014 TO 31.08.2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.27274 OF 2015 (H)

Dated this the 27th day of November, 2015

J U D G M E N T

The petitioners, who had availed of a housing loan 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.P2 is the notice issued 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 for the petitioners as also the learned Standing counsel appearing for the respondent bank.

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 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 amount outstanding from the petitioners to the respondent bank, after giving credit to the payment of Rs.25,00,000/- that was made by the petitioners pursuant to the interim order dated 18.9.2015, is stated to be Rs.1,98,93,073/- together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.1,98,93,073/- together with accrued interest in fifteen equal and successive monthly installments commencing from 11.01.2016, then the further proceedings initiated against them by the respondent bank shall be kept in abeyance.

(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 bank will be free to continue the recovery proceedings against them from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/27/11/15