IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

WP(C).No. 27639 of 2015 (D)

PETITIONERS:-
----

1. **BIJU N.P., S/O.PRAKASAN,**
   AGED 44 YEARS, NADUPARAMBIL HOUSE,
   KIZHUPULLIKKARA P.O., THRISSUR - 680 704.

2. **JENCY BIJU,**
   W/O.BIJU N.P., NADUPARAMBIL HOUSE,
   KIZHUPULLIKKARA P.O., THRISSUR - 680 704.

   BY ADVS.SRI.C.A.CHACKO,
   SRI.SEBY JOSEPH,
   SMT.C.M.CHARISMA,
   SMT.MEGHA K.XAVIER.

RESPONDENTS:-
----

1. **THE AUTHORIZED OFFICER AND CHIEF MANAGER,**
   FEDERAL BANK LTD., STRESSED ASSET MANAGEMENT CELL,
   FEDERAL TOWERS (1ST FLOOR), MARINE DRIVE,
   ERNAKULAM - 682 031.

2. **THE BRANCH MANAGER,**
   FEDERAL BANK LTD., TRIPRAYAR BRANCH,
   TRIPRAYAR, P.O. NATTIKA, THRISSUR - 680 566.

   BY ADVS. SRI.A.ANTONY, SC,
   SMT.LEELAMMA ANTONY.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 27639 of 2015 (D)

<u>APPENDIX</u>

<u>PETITIONER'S EXHIBITS</u>:-

EXHIBIT P1. TRUE COPY OF PASSBOOKS OF THE PETITIONER.

EXHIBIT P2. TRUE COPY OF POSSESSION NOTICE DATED 05.03.2015 ISSUED BY 1ST RESPONDENT.

EXHIBIT P3. TRUE COPY OF NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 08.09.2015.

<u>RESPONDENT'S EXHIBITS</u>:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No.27639 of 2015

Dated this the 9th day of October, 2015

JUDGMENT

The petitioners, who had availed of two housing loans 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 copy of the possession notice issued by the 1st respondent. Ext.P3 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 on behalf of the petitioners as also the learned Standing Counsel appearing on behalf of the respondent bank.

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, is stated to be Rs.5,31,947/- (Rupees Five lakhs thirty one thousand nine hundred and forty seven) together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.5,31,947- together with accrued interest in six equal and successive monthly installments commencing from 01.11.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against them by the 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

rsr