IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

WP(C).No. 27788 of 2015 (W)

PETITIONERS :
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1. M. DEVADAS, AGED 48 YEARS,
S/O.KUNHIKUTTAN NAIR, LEELA NIVAS, VANIAMKULAM
OTTAPALAM, PALAKKAD DISTRICT, PIN 679522

2. R. JALAJA
W/O. M DEVADAS, LEELA NIVAS, VANIAMKULAM,
OTTAPALAM, PALAKKAD DISTRICT, PIN 679522

BY ADVS.SRI.K.M.SATHYANATHA MENON
SMT.KAVERY S THAMPI
SMT.ANJANA KANNATH

RESPONDENTS :
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1. THE CHIEF MANAGER, STATE BANK OF TRAVANCORE,
OTTAPALAM BRANCH, OTTAPALAM, PALAKKAD DISTRICT
PIN 679522

2. THE AUTHORISED OFFICER/CHIEF MANAGER,
STATE BANK OF TRAVANCORE, PALAKKAD DISTRICT
PIN 679522

R1 & R2 BY SRI.T.SETHUMADHAVAN SENIOR ADVOCATE
BY ADV. SRI.K.JAYESH MOHANKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 27788 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

P1:- **TRUE COPY OF THE FRONT PAGE OF THE PASS BOOK ISSUED TO THE IST PETITIONER BY THE IST RESPONDENT.**

P2:- **TRUE COPY OF THE NOTICE DTD 16/12/2014 ISSUED BY THE 2ND RESPONDENT.**

P3:- **TRUE COPY OF THE LETTER DTD 26/2/2015 GIVEN BY THE IST PETITIONER TO THE IST RESPONDENT.**

P4:- **TRUE COPY OF THE PLAINT FILED BY THE IST RESPONDENT BEFORE THE MUNSIFF COURT, OTTAPALAM AS O S NO 99 OF 2015.**

P5:- **TRUE COPY OF THE WARRANT DTD 21/8/2015 IN CMP NO 3975/2015 ISSUED TO THE PETITIONER**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.27788 OF 2015 (W)

Dated this the 22nd day of September, 2015

J U D G M E N T

The petitioners, who had availed of a vehicle 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. It is also evident from the averments in the writ petition that the respondent bank has also taken recourse to a civil suit for recovery of the entire loan amount together with accrued interest. 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.

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 vehicle loan availed by the petitioners, is stated to be Rs.1,40,000/- together with accrued interest. Accordingly, if the petitioners remit the said amount of Rs.1,40,000/- together with accrued interest, on or before 31.10.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings for recovery as against the petitioners 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.

(iii) I make it clear that on the petitioners remitting the amount of Rs.1,40,000/- together with accrued interest as above, the respondent bank shall restore possession of the vehicle to the petitioners.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp