IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WP(C).No. 28162 of 2015 (U)

PETITIONER(S) :

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1. SHIBU M.P, AGED 44 YEARS,
MURIKOLIL HOUSE, VATTAKKAYAM,
ERATTUPETTA, KOTTAYAM - 686 121.

2. SMT.DEENI SHIBU,
MURIKOLIL HOUSE, VATTAKKAYAM, ERATTUPETTA,
KOTTAYAM - 686 121.

BY ADVS.SRI.NOBLE MATHEW
SRI.JESTIN MATHEW

RESPONDENT(S) :

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1. THE FEDERAL BANK LIMITED,
TEEKOY BRANCH, ERATTUPETTA - 686 121.

2. C.M.BOSE,
ZONAL MANAGER AND AUTHORIZED OFFICER,
THE FEDERAL BANK LIMITED, SAMC ZONAL OFFICE,
KOTTAYAM - 686 001.

3. THE FEDERAL BANK LIMITED, ALUVA,
REPRESENTED BY ITS GENERAL MANAGER - 683 101.

R1 & R3 BY ADVS. SRI.A.ANTONY
SMT.LEELAMMA ANTONY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 28162 of 2015 (U)
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APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P-1: **PHOTOSTAT COPY OF THE NOTICE DATED 31.07.2015 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONERS.**

EXT.P-2: **PHOTOSTAT COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE RESPONDENTS ON 07.09.2015.**

RESPONDENT(S)' EXHIBITS :
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.28162 of 2015

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Dated this the 14th day of October, 2015

<u>JUDGMENT</u>

The petitioner who had availed of a cash credit facility 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.P1 is the 13(2) notice issued under the SARFAESI Act. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel for the petitioner and 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 petitioner is to permit him to remit the balance amounts outstanding to the bank in easy instalments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:-

(i) The total outstanding amount from the petitioner to the respondent bank, in respect of the loan, is stated to be Rs.32,41,266/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.32,41,266/- together with accrued interest in 12 equal and successive monthly instalments commencing from 01.12.2015, the recovery steps initiated against the petitioner by the respondent Bank shall be kept in abeyance.

(iii) It is made clear that, if the petitioner commits a default in respect of any of the instalments, he will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns