

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

W.P.(C).No. 28665 of 2015 (G)

PETITIONERS :

1. VINESH P.,
S/O.VALSARAJ,
AGED 39 YEARS,
'AISWARYA',
ARUVIPPURAM ROAD,
NEAR SREENARAYANA GURU MANDIRAM,
CHERUPPARA,
VILAPPIL,
THIRUVANANTHAPURAM,
PIN-695 573.
2. MRS.BABY VIJILIN,
W/O.VINESH P.,
AGED 35 YEARS,
'AISWARYA',
ARUVIPPURAM ROAD,
NEAR SREENARAYANA GURU MANDIRAM,
CHERUPPARA,
VILAPPIL
THIRUVANANTHAPURAM, PIN-695573.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS :

1. BRANCH MANAGER,
UNION BANK OF INDIA,
KUMARAPURAM BRANCH,
MEDICAL COLLEGE,
THIRUVANANTHAPURAM,
PIN-695 011.

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2. THE ASSISTANT GENERAL,
REGIONAL OFFICE,
UNION BANK OF INDIA,
MAIN BRANCH, M.G.ROAD,
THIRUVANANTHAPURAM-695 001.

3. AUTHORISED OFFICER,
REGIONAL OFFICE,
UNION BANK BHAVAN,
M.G.ROAD,
STATUE JUNCTION,
THIRUVANANTHAPURAM,
PIN-695 001.

BY SRI.A.S.P.KURUP, SC, UNION BANK OF INDIA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 23-09-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1 TRUE COPY OF THE LETTER OF SANCTION DATED
16.11.2009 ISSUED BY THE 1ST RESPONDENT
SANCTIONING THE HOUSING LOAN.
- EXT.P2 TRUE COPY OF THE LETTER OF SANCTIONED BEARING
NO.5556490000488 DATED 12.12.2013 OF THE 1ST
RESPONDENT.
- EXT.P3 TRUE COPY OF THE STATEMENT OF ACCOUNT FOR THE
PERIOD FROM 01.07.2015 TO 13.08.2015 OF THE LOAN
A/C.NO.556406650000108 DATED 13.08.2015.
- EXT.P4 TRUE COPY OF THE LOAN ACCOUNT FROM 12.01.2013 TO
29.07.2015 OF THE LOAN A/C.NO.556406650000236
DATED 29.07.2015.
- EXT.P5 TRUE COPY OF THE NOTICE DATED 08.08.2015 ISSUED TO
THE PETITIONERS UNDER SECCTION 13(2) OF THE
SARFAESI ACT.
- EXT.P6 TRUE COPY OF THE REPRESENTATION DATED 13.08.2015
ISSUED BY THE PETITIONERS TO THE 1ST RESPONDENT.
- EXT.P7 TRUE COPY OF THE LETTER DATED 04.09.2015 OF THE
2ND RESPONDENT TO THE 1ST PETITIONER.
- EXT.P8 TRUE COPY OF THE LETTER DATED NIL OF THE 1ST
RESPONDENT.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.28665 OF 2015 (G)

Dated this the 23rd day of September, 2015

J U D G M E N T

The petitioners, who had availed of a housing loan and a term 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.P5 is the notice issued to the petitioners under Section 13(2) of the SARFAESI Act. 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 loan as of today, is stated to be Rs.47,500/- together with accrued interest. Accordingly, if the petitioners remit the above amount of Rs.47,500/- together with accrued interest in two equal and successive monthly installments commencing from 15.10.2015, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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