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

WP(C).NO. 28929 OF 2015 (M)

PETITIONER(S):

1. PRASANTH K.T., AGED 42 YEARS
S/O.AYYAPPU
KARIYAM THIRUTHI HOUSE
PADINHAREKKARA POST
MALAPPURAM DISTRICT, PIN-676562

2. SANDHYA, AGED 40 YEARS
W/O.PRASANTH
KARIYAM THIRUTHI HOUSE
PADINHAREKKARA POST
MALAPPURAM DISTRICT, PIN-676562

BY ADV. SRI.E.C.BINEESH

RESPONDENT(S):

1. THE TIRUR URBAN CO-OPERATIVE BANK LTD. F.1616
TIRUR, MALAPPURAM, REPRESENTED BY KRISHNAN.E,
ASSISTANT GENERAL MANAGER IN CHARGE/ AUTHORISED OFFICER
PIN-676 562

2. THE SECRETARY, THE TIRUR URBAN CO-OPERATIVE BANK LTD. F.1616
TIRUR, MALAPPURAM DISTRICT PIN-676 562

BY SRI.M.SASEENDRAN,SC, URBAN CO.OP.BANK,TIRUR

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

WP(C).NO. 28929 OF 2015 (M)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE PETITION FILED BY THE RESPONDENT BANK BEFORE THE HON'BLE CHIEF JUDICIAL MAGISTRATE COURT, MANJERI ON 20.08.2015

EXT.P2: TRUE COPY OF THE NOTICE ISSUED AGAINST THE 1ST PETITIONER

EXT.P3: TRUE COPY OF THE NOTICE ISSUED AGAINST THE 2ND PETITIONER

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.28929 of 2015

....

Dated this the 23rd day of September, 2015

J U D G M E N T

The petitioners, who had availed of a 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. Exts.P2 and P3 are the notices issued by the petitioners from the Court of Chief Judicial Magistrate. 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 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 instalments. 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 availed by the petitioners are stated to be Rs.1,23,032/- together with accrued interest. Accordingly, if the petitioners pay the aforesaid amount of Rs.1,23,032/- together with accrued interest in five equal and successive monthly instalments commencing from 15.10.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioners by the respondent bank shall be kept in abeyance.

(ii) It is made clear that, if the petitioners 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