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. 28947 OF 2015 (P)

PETITIONER(S):

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1. BABU JOHN AGED 40 YEARS
S/O.JOHN ULAHANNAN
KALAPPURAKKAL HOUSE, KARIVEDAKAM VILLAGE
SANKARAMPADY P.O., KASARAGOD DISTRICT
PIN-671 541

2. SHABU JOHN, AGED 35 YEARS
S/O.JOHN ULAHANNAN
KALAPPURAKKAL HOUSE, KARIVEDAKAM VILLAGE
SANKARAMPADY P.O., KASARAGOD DISTRICT
PIN-671 541

4. JOHN ULAHANNAN, AGED 35 YEARS, S/O. ULAHANNAN
KALAPPURAKKAL HOUSE, KARIVEDAKAM VILLAGE
SANKARAMPADY P.O., KASARAGOD DISTRICT
PIN-671 541
BY ADV. SRI.T.K.VIPINDAS

RESPONDENT(S):

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1. THE KASARAGOD DISTRICT CO-OPERATIVE BANK LTD.
BANDADKA BRANCH, KASARAGOD DISTRICT,
PIN-671121 REPRESENTED BY ITS MANAGER

2. THE AUTHORIZED OFFICER,
THE KASARAGOD DISTRICT CO-OPERATIVE BANK LTD.
BANDADKA BRANCH, KASARAGOD DISTRICT,-671 541

R1,R2 BY SRI.JAWAHAR JOSE, SC, KASARAGOD DIST. CO.OP BANK LTD.

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. 28947 OF 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT AS PER SECTION 13(2) OF THE SARFAESI ACT DATED 28.05.2015

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.28947 of 2015

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Dated this the 23rd day of September, 2015

<u>JUDGMENT</u>

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. Ext.P1 is the notice 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 for the petitioners 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 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 outstanding amount from the petitioners to the respondent bank, in respect of the loan, is stated to be Rs.29,25,700/- together with accrued interest as on today. Accordingly, if the petitioners pay the aforesaid amount of Rs.29,25,700/- together with accrued interest in 12 equal and successive monthly instalments commencing from 15.10.2015, the recovery steps initiated against the petitioners by the respondent Bank shall be kept in abeyance.

> (iii) It is made clear that, if the petitioners commit a default in respect of any of the instalments, 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

mns