IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WP(C).No. 29525 of 2015 (M)

PETITIONER(S):
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1. **S. VINODKUMAR,**
   POORADAM, BHOODANA COLONY, THONAKKAL P.O.
   MANGALAPURAM, THIRUVANANTPHAURAM-695 317.

2. **LATHA S NAIR,**
   W/O.S.VINODKUMAR, POORADAM, BHOODANA COLONY
   THONAKKAL P.O., MANGALAPURAM
   THIRUVANANTPHAURAM-695 317.

   BY ADV. SRI.SUMAN CHAKRAVARTHY

RESPONDENT(S):
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1. **THE AUTHORIZED OFFICER,**
   THE STATE BANK OF INDIA, RACPC, LMS COMPOUND,
   THIRUVANANTHAPURAM-695001.

2. **THE STTE BANK OF INDIA,**
   RACPC, LMS COMPOUND,
   THIRUVANANTHAPURAM-695001.
   REPRESENTED BY ITS CHIEF MANAGER.

   BY SRI.R.S.KALKURA, SC, SBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 29525 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1. **TRUE COPY OF THE NOTICE DATED 14/8/2014.**

EXT.P2. **TRUE COPY OF THE ORDER DATED 12/6/2015 IN MC NO.581/2015.**

EXT.P3. **TRUE COPY OF THE RECEIPT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No.29525 of 2015

Dated this the 29th day of September, 2015

JUDGMENT

The petitioners, who had availed of a housing 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.P2 is the order of the Chief Judicial Magistrate under Section 14 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 on behalf of the petitioners as also 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 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, is stated to be Rs.75,396/- together with accrued interest and other charges. Accordingly, if the petitioners remit the aforesaid amount of Rs.75,396/- together with accrued interest and other charges in six 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) Taking note of the submission of the learned counsel for the petitioners that the petitioners have already been disbursed, I make it clear that the petitioners does not have to wait for six months to clear the overdue amount and if the petitioners pay the overdue amount even prior to the expiry of six months, then the respondent Bank shall restore possession of the secured asset to the petitioners on payment of the overdue amount.

(iii) It is made clear that if the petitioners commits 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

rsr