**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937**

**WP(C).No. 29797 of 2015 (Y)**
**----------------------------**

**PETITIONER(S):**
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1. **JAYESH STEPHEN, S/O.STEPHEN,**
   **AGED 36 YEARS, NISHA BHAVAN, MULLUVILA POST,**
   **THIRUVANANTHAPURAM-695 133.**

2. **VIMALA, W/O.STEPHEN,**
   **AGED 66 YEARS, NISHA BHAVAN, MULLUVILA POST,**
   **THIRUVANANTHAPURAM-695 133.**

   **BY ADVS.SRI.SEBASTIAN JOSEPH (KURISUMMOOTTIL),**
   **SRI.JOHNSON K.KURIEN.**

**RESPONDENT(S):**
**----------------------------**

1. **THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LTD.,**
   **KANJIRAMKULAM BRANCH, REPRESENTED BY ITS SECRETARY,**
   **PIN-695 001.**

2. **THE AUTHORISED OFFICER,**
   **THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LTD.,**
   **HEAD OFFICE, THIRUVANANTHAPURAM-695 001.**

   **BY ADV. SRI.T.R.HARIKUMAR, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**rs.**

WP(C).No. 29797 of 2015 (Y)

## APPENDIX

**PETITIONER'S EXHIBITS:-**

**EXT.P1** **COPY OF THE NOTICE DATED 04/09/2015 ISSUED BY THE 2ND RESPONDENT.**

**RESPONDENT'S EXHIBITS:-** **NIL.**

**//TRUE COPY//**

**P.S. TO JUDGE**

rs.

**A.K.JAYASANKARAN NAMBIAR, J.**
**-------------------------------**
**W.P.(C).NO.29797 OF 2015 (Y)**
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**Dated this the 12th day of November, 2015**

**<u>J U D G M E N T</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 possession notice issued to the petitioners under 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 availed by the petitioners, is stated to be Rs.3,70,000/- together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.3,70,000/- together with accrued interest in ten equal and successive monthly installments commencing from 30.11.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against them by the respondent bank shall be kept in abeyance.
>
> (ii) It is further 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.

**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

prp/12/11/15