IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 30588 of 2015 (W)
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PETITIONER(S):
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1. SREEKUMAR, AGED 39 YEARS,
   S/O. SASI, RESIDING AT ILLICKAL HOUSE,
   PATHIRAPPALLY P.O., ALAPPUZHA - 688 521.

2. AISWARYA K.,
   W/O. SREEKUMAR, RESIDING AT ILLICKAL HOUSE,
   PATHIRAPPALLY P.O, ALAPPUZHA - 688 521.

   BY ADVS.SMT.TESSY JOSE
   SRI.JOHNY CHERIAN
   SMT.LAKSHMI B.SHENOY

RESPONDENT(S):

HDFC BANK LTD.,
S L PLAZA, PALARIVATTOM, KOCHI - 25,
REPRESENTED BY ITS AUTHORIZED OFFICER.

BY ADVS. SRI.T.RAJESH, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 30588 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF THE STATEMENT FROM THE RESPONDENT BANK DT. 28.9.2015.

P2 - TRUE COPY OF THE RELEVANT PAGE OF PETITIONER'S PASSBOOK.

P3 - TRUE COPY OF THE ORDER PASSED BY THE CHIEF JUDICIAL MAGISTRATE COURT ALAPPUZHA DT. 04.7.2015.

P4 - TRUE COPY OF THE POSSESSION NOTICE DT. 26.8.2015 ISSUED BY THE BANK.

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.30588 of 2015

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Dated this the 28th day of October 2015

JUDGMENT

The petitioners, who had availed a vehicle 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.P4 is the possession notice issued to the petitioner under the SARFAESI Act. It is stated that pursuant to Ext.P4, the possession of the vehicle was also taken by the respondent bank. 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.1,68,529/- together with accrued interest. Accordingly, if the petitioners remit the aforesaid amount of Rs.1,68,529/- together with accrued interest in three equal and successive monthly installments commencing from 16.11.2015, 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 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.

(iii) It is made clear that on the petitioners making payment of the amount of Rs.1,68,529/- together with accrued interest, as specified above, the respondent bank shall hand over the possession of the secured asset to the petitioners forthwith.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/