IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

WP(C).No. 30603 of 2015 (A)

PETITIONERS :
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1. PRIYAD P., AGED 43 YEARS, S/O.PRABHAKARAN,
   PRIYAD TRADING COMPANY ARYAKKARE, MUHAMMA.P.O.,
   CHERTHALA, RESIDING AT KRISHNAKRIPA, MUHAMMA.P.O.,
   ALAPUZHA FROM PADIYATHU HOUSE, MUHAMMA.P.O

2. RENJUSHA, AGED 36 YEARS, W/O.PRIYAD,
   RESIDING AT KRISHNAKRIPA MUHAMMA.P.O.,
   ALAPUZHA FROM PADIYATHU HOUSE, MUHAMMA.P.O.

BY ADV. SRI.S.SHAJAHAN (ADOOR)

RESPONDENT(S):
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1. THE SOUTH INDIAN BANK LTD.,
   REPRESENTED BY ITS DEPUTY GENERAL MANAGER
   (CREDIT RECOVERY), SOUTH INDIAN BANK HOUSE,
   T.B.ROAD, P.B.NO.21, THRISSUR, PIN-680 001

2. THE BRANCH MANAGER, THE SOUTH INDIAN BANK LTD,
   CHERTHALA BRANCH, CHERTHALA-688 524

R1 & R2 BY SRI.GEORGE VARGHESE,SC,SOUTH INDIAN BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).NO.30603/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1	COPY OF THE NOTICE DATED 16/7/2014
P2	COPY OF THE DEMAND NOTICE DATED 16/7/2014
P3	COPY OF THE POSSESSION NOTICE
P4	COPY OF THE RECEIPT DATED 20/11/2014
P5	COPY OF THE RECEIPT DATED 1/1/2015
P6	COPY OF THE RECEIPT DATED 14/2/2015
P7	COPY OF THE RECEIPT DATED 23/3/2015
P8	COPY OF THE RECEIPT DATED 13/5/2015
P9	COPY OF THE RECEIPT DATED 14/5/2015
P10	COPY OF THE ORDER ISSUED BY THE CJM, ALAPUZHA
P11	COPY OF THE JUDGMENT DATED 2/7/2015
P12	COPY OF THE SAID ORDER DATED 29/9/2015
P13	COPY OF THE RECEIPT DATED 14/09/2015
P14	COPY OF THE RECEIPT DATED 14/09/2015

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.30603 of 2015

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Dated this the 8th day of October, 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 Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts. Ext.P12 is the order passed by the Chief Judicial Magistrate Court, Alappuzha. 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 amount outstanding from the petitioners under the cash credit loan is currently Rs.7,12,000/- together with accrued interest. Accordingly, if the petitioners pay the aforesaid amount of Rs.7,12,000/- together with accrued interest in ten equal and successive monthly instalments commencing from 01.11.2015, 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

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