IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 30998 of 2015 (Y)

PETITIONER(S):
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1. ALPHONSE JOSEPH VADAKKAN, AGED 41,
   S/O.V.C. JOSEPH, VADAKKAN HOUSE,
   ANTHINADU, PALA AND RESIDING AT
   AYODHYA, FAC LANE, VYTTILLA P.O.,
   ERNAKULAM DISTRICT, PIN-682 019.

2. LEELAMMA JOHN, AGED 60,
   W/O.K.P. JOHN, KURUMBALAKATTU HOUSE,
   NECHOOR, MANEED, PIN-686 664.

BY ADVS.SRI.N.P.PRAJEESH,
SRI.JOSEPH GEORGE.

RESPONDENT(S):
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1. BANK OF INDIA,
   REP. BY ITS BRANCH MANAGER,
   ERNAKULAM BRANCH, KANNANKERI ESTATE,
   SHANMUGHAN ROAD, ERNAKULAM DISTRICT-682 035.

2. THE AUTHORIZED OFFICER,
   BANK OF INDIA, ERNAKULAM BRANCH,
   KANNANKERI ESTATE, SHANMUGHAN ROAD,
   ERNAKULAM DISTRICT-682 035.

BY ADV. SRI.P.C.CHACKO, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 30998 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 **COPY OF THE NOTICE DATED 01/10/2015 ISSUED BY THE 2ND RESPONDENT U/S. 13(2) OF SARFAESI ACT.**

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

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.30998 OF 2015 (Y)

Dated this the 12th day of October, 2015

J U D G M E N T

The petitioners, who had availed of a cash credit facility from the 1st 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 issued to the petitioners 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 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 cash credit facility availed by the petitioners, is stated to be Rs.4,00,000/- together with accrued interest. Accordingly, if the petitioners remit the above amount of Rs.4,00,000/- together with accrued interest in six weeks from today, then the recovery steps, if any, initiated against them by the respondent bank shall be kept in abeyance.
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> (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.
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> (iii) The petitioners shall also approach the respondent bank within one week from the date of receipt of a copy of this judgment and comply with the necessary formalities insisted by the respondent bank for continuing the cash credit facility.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp