IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 32490 of 2014 (I)

PETITIONER(S):
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1. **SUNIL T.V, AGED 49 YEARS**
   S/O.SRI.VASU, THADATHIL HOUSE, PARAKULAM
   NEAR VALLISSERY SCHOOL, AVINISSERY (PO)
   THRISSUR DISTRICT-680313.

2. **PRIYA SUNIL, AGED 36 YEARS**
   W/O.SUNIL T.V.,THADATHIL HOUSE, PARAKULAM
   NEAR VALLISSERY SCHOOL, AVINISSERY (PO)
   THRISSUR DISTRICT - 680313.

   BY ADVS.SRI.M.H.HANIL KUMAR
   SRI.A.P.VASAVAN
   SRI.M.R.DHANIL

RESPONDENT(S):
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1. **THE FEDERAL BANK LTD**
   REPRESENTED BY ITS BRANCH MANAGER, PUZHAKKAL BRANCH
   SREE DHARMA SASTHA SHOPPING COMPLEX, PUZHAKKAL
   THRISSUR DISTRICT-680553.

2. **THE AUTHORISED OFFICER AND CHIEF MANAGER**
   THE FEDERAL BANK LTD, REGIONAL OFFICE
   MISSION QUARTERS, THRISSUR-680001.

   R1 BY ADV. SMT.RAJI T.BHASKAR

   THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 32490 of 2014 (I)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT-P1:A TRUE COPY OF THE RELEVANT PAGES OF THE ORIGINAL APPLICATION FILED BY THE FIRST RESPONDENT BANK AGAINST THE PETITIONERS BEFORE THE DEBT RECOVERY TRIBUNAL.

EXHIBIT-P2: A TRUE COPY OF THE STATEMENT OF ACCOUNTS IN THE HOUSING LOAN ACCOUNT OF THE FIRST PETITIONER DATED 28.02.2014.

EXHIBIT-P3:A TRUE COPY OF THE NOTICE DATED 02.07.2013 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONERS.

EXHIBIT-P4: A TRUE COPY OF THE PETITION IN C.M.P.5566 OF 2014 FILED BY THE FIRST RESPONDENT BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR.

EXHIBIT-P5: A TRUE COPY OF THE REPRESENTATION DATED 28.11.2014 SUBMITTED BY THE FIRST PETITIONER TO THE RESPONDENTS.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32490 OF 2014 (I)

Dated this the 9th day of February, 2015

<u>J U D G M E N T</u>

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.P3 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 Sri.M.H.Hanil Kumar, the learned counsel appearing on behalf of the petitioners as also Smt.Raji T. Bhaskar, 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.4,53,141/- together with accrued interest. Accordingly, if the petitioners remit the above amount of Rs.4,53,141/- together with accrued interest in five equal and successive monthly installments commencing from 1.3.2015, 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) 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp