IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

WP(C).No. 32573 of 2015 (V)

PETITIONER(S) :

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1. FREDDY JACKIM, AGED 53 YEARS,
   S/O.K.J.GEORGE, KAITHATH HOUSE, 20/2362,
   PERUMPADAPPU, PALLURUTHY P.O., KOCHI- 682 006.

2. BABY FREDDY, AGED 49 YEARS,
   W/O.FREDDY JACKIM, KAITHATH HOUSE, 20/2362,
   PERUMPADAPPU, PALLURUTHY P.O., KOCHI- 682 006.

   BY ADV. SRI.LALJI P.THOMAS

RESPONDENT(S) :

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1. MANAGER,
   ORIENTAL BANK OF COMMERCE,
   PANAYAPPALLY BRANCH, NEAR GOUTHAM HOSPITAL,
   KOCHI- 682 005.

2. SALE OFFICER,
   ORIENTAL BANK OF COMMERCE,
   PANAYAPPALLY BRANCH, NEAR GOUTHAM HOSPITAL,
   KOCHI- 682 005.

   BY ADV. SRI.SAJI P.JOSEPH, S.C, ORIENTAL BANK OF COMMERCE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 32573 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: **TRUE COPY OF THE TREATMENT CERTIFICATE OF THE 1ST PETITIONER.**

EXHIBIT P2: **TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE RESPONDENT BANK DATED 14.10.2015.**

EXHIBIT P3: **TRUE COPY OF THE AUCTION NOTICE ISSUED BY THE RESPONDENT BANK TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32573 OF 2015 (V)

Dated this the 27th day of October, 2015

J U D G M E N T

The petitioners, who had availed of loans 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 copy of the auction notice issued to the petitioners. 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 loans availed by the petitioners, as on 30.09.2015, is stated to be Rs.21,288/- together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.21,288/- together with accrued interest within one month from today, 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/27/10/15