IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).No. 32603 of 2015 (A)

PETITIONER(S):
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1. ROSY VARKEY, AGED 63 YEARS,
   W/O. LATE MR.VARKEY DEVASSY,
   KALLARACKAL HOUSE, OKKAL P.O.,
   CHELAMATTOM, ERNAKULAM.

2. JIJO KALLARACKAL VARKEY, AGED 39 YEARS,
   S/O. LATE MR.VARKEY DEVASSY,
   KALLARACKAL HOUSE, OKKAL P.O.,
   CHELAMATTOM, ERNAKULAM.

3. SIJO KALLARACKAL VARKEY, AGED 37 YEARS,
   S/O. LATE MR.VARKEY DEVASSY,
   KALLARACKAL HOUSE, OKKAL P.O.,
   CHELAMATTOM, ERNAKULAM.

BY ADVS.SRI.BABU CHERUKARA
SRI.JEEMON JOHN
SMT.ROSAMMA MATHEW
SRI.SEVI VARGHESE
SRI.P.A.SALIM
SRI.ANZAR BASHEER
SRI.P.ANTO THOMAS

RESPONDENT(S):
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1. AUTHORISED OFFICER,
   HDFC BANK LTD., 3RD FLOOR, S.L.PLAZA,
   PALARIVATTOM, ERNAKULAM,PIN-682 024.

2. MANAGER, HDFC BANK LIMITED,
   M.G.ROAD, THRISSUR BRANCH, PIN-680 001.

BY ADV. SRI.T.RAJESH, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 32603 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS:

P1 : **TRUE PHOTOSTAT COPY OF THE COMPUTER PRINT OUT OF THE LOAN REPAYMENT SCHEDULE.**

P2 : **TRUE PHOTOSTAT COPY OF THE DEMAND NOTICE DTD.8.5.2015.**

P3 : **TRUE PHOTOSTAT STATEMENT OF ACCOUNTS OF HDFC BANK FOR THE PERIOD FROM 1.10.2012 TO 15.10.2015.**

P4 : **TRUE PHOTOSTAT OF ORDER PASSED IN THE CRL.MP NO.3547 OF 2015 DTD.12.10.2015 BY THE CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.**

P5 : **TRUE PHOTOSTAT OF COMMISSION WARRANT DTD.13.10.2015.**

P6 : **TRUE PHOTOSTAT OF NOTICE ISSUED BY ADVOCATE COMMISSIONER DTD.15.10.2015.**

RESPONDENT(S)' EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 32603 of 2015

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Dated this the 17th day of November, 2015

JUDGMENT

The petitioners, who had availed a 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.P6 is the notice issued by the Advocate Commissioner under 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 on behalf of the petitioners as also the learned Standing Counsel appearing on behalf of the respondents.

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 outstanding amount, in respect of the loan, is stated to be Rs.22,83,484/- together with accrued interest. Accordingly, if the petitioners remit the aforesaid amount of Rs.22,83,484/- together with accrued interest in twelve equal and successive monthly installments commencing from 30.11.2015, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /17.11.15