IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 32744 of 2015 (P)

PETITIONER(S):

1. RAJEESH PADMAN V.V., AGED 42 YEARS,
   S/O.PADMANABHAN, PUTHANPURAYIL HOUSE,
   NANMINDA P.O., KOZHIKODE - 673 613.

2. PADMANABHAN, AGED 75 YEARS,
   S/O.KUNHIKANNAN, PUTHANPURAYIL HOUSE,
   NANMINDA P.O., KOZHIKODE - 673 613.

BY ADVS.SRI.SANTHARAM.P
SMT.REKHA ARAVIND

RESPONDENT(S):

KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, P.B.NO.503, CHALAPPURAM POST,
KOZHIKODE, REPRESENTED BY AUTHORIZED OFFICER/
SENIOR MANAGER, PIN - 673 002.

BY ADV. SRI.R.SUDHISH, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 32744 of 2015 (P)

<u>APPENDIX</u>

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE DEMAND NOTICE DTD.6.1.2014 ISSUED BY THE RESPONDENT BANK.

EXT.P2: TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT BANK DTD.21.10.2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32744 OF 2015 (P)

Dated this the 28th 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 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 loan availed by the petitioners, is stated to be Rs.5,07,798/- together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.5,07,798/- together with accrued interest in ten equal and successive monthly installments commencing from 16.11.2015, and continue to keep up the regular installment payments as per the original loan schedule, then the further proceedings for recovery, against the petitioners, 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/28/10/15