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. 32942 of 2015 (P)

PETITIONER(S):
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1. THE PRINCIPAL,
   MOULANA ABDUL KALAM AZAD MEMORIAL
   ENGLISH MEDIUM PUBLIC SCHOOL,
   VENJARAMOODU, THIRUVANANTHAPURAM-695 607.

2. ABDUL RASHEED, S/O.AMEEN PILLAI,
   AGED 60 YEARS, RIYAZ VILLA, KAVARA,
   NELLANADA, VENJARAMOODU P.O.,
   THIRUVANANTHAPURAM-695 607.

BY ADVS.SRI.M.ZIYAD,
SRI.T.A.PRAKASH.

RESPONDENT(S):

THE AUTHORISED OFFICER,
INDUS IND BANK LTD., "RAMA BHAVAN",
NEAR TOLL JUNCTION, EDAPPALLY, KOCHI.

BY ADV. SRI.VARGHESE C.KURIAKOSE.

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

rs.

WP(C).No. 32942 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1. A TRUE COPY OF THE ORDER DATED 10/09/2015 PASSED BY THE CHIEF JUDICIAL MAGISTRATE, THIRUVANANTHAPURAM.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.32942 of 2015

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Dated this the 17th day of November 2015

JUDGMENT

The petitioners, who had availed a vehicle 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 order passed by the Chief Judicial Magistrate. It is stated that pursuant to the proceedings, the respondent bank had also taken possession of the vehicle which was the secured asset. 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 respondent.

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.1,20,606/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,20,606/- together with accrued interest in two equal and successive monthly installments, commencing from 30.11.2015, 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.

(iii) It is made clear that on the petitioners paying the said amount of Rs.1,20,606/- together with accrued interest, either within the time granted in this judgment or earlier, the respondent bank shall handover the possession of the vehicle to the petitioners.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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