IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

WP(C).No. 33249 of 2015 (E)

PETITIONER(S):
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1. SAJEEV I, 40 YEARS OF AGE,
   S/O.IBRAHIMKUTTY, PROPRIETOR,
   M/S.RAJADHANI COLLECTIONS,
   EZHIKULATHU JUNCTION, HARIPAD.P.O.,
   ALAPPUZHA - 690514.

2. MRS.SHINY SAJEEV, 33 YEARS OF AGE,
   W/O.SAJEEV I, KURUPOTTIL THEKKATHIL,
   PALLAMEL VILLAGE, ADIKKATTUKULANGARA.P.O.,
   NOORANAD, ALAPPUZHA - 690 504.

BY ADVS.SRI.SHIRAZ ABDULLA
SRI.JOJO PAPPACHAN

RESPONDENT(S):
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1. AUTHORIZED OFFICER,
   SOUTH INDIAN BANK LTD., KATTANAM BRANCH,
   PALAMOOTTIL BUILDING, K.P.ROAD,
   KATTANAM PALLICKAL.P.O., ALAPPUZHA - 690 503.

2. SOUTH INDIAN BANK LTD., KATTANAM BRANCH,
   PALAMOOTTIL BUILDING, K.P.ROAD,
   KATTANAM PALLICKAL.P.O., ALAPPUZHA - 690 503.

BY SRI.K.K.JOHN,SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 33249 of 2015 (E)

APPENDIX

PETITIONERS' EXHIBITS:

EXT. P1 : **A TRUE COPY OF THE RELEVANT PAGES OF THE BANK PASS BOOK PERTAINING TO HOUSING LOAN.**

EXT. P2 : **A TRUE COPY OF THE RELEVANT PAGES OF THE BANK PASS BOOK PERTAINING TO BUSINESS LOAN.**

EXT. P2 : **A TRUE COPY OF THE CASH RECEIPTS DATED 23.9.15.**

EXT. P4 : **A COPY OF THE NOTICE DATED 3.9.15 IN MC.NO.308/15 ISSUED BY THE ADVOCATE COMMISSIONER.**

RESPONDENTS' EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 33249 of 2015

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Dated this the 2nd day of November 2015

<u>JUDGMENT</u>

The petitioners, who had availed of a cash credit facility and also 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.P4 is the notice issued by the Advocate Commissioner. 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 overdue interest in the cash credit facility is stated to be Rs.53,000/- together with accrued interest. Similarly, the petitioners are stated to be in default of only one instalment in the housing loan account. Accordingly, if the petitioners pay an amount of Rs. 1,00,000/- to the respondent bank, on or before 30.11.2015, and continue to keep up the regular instalments as per the original loan schedule in the housing loan account, and further comply with the formalities stipulated by the respondent bank for continuing the cash credit facility, 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

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