IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 33596 of 2014 (Y)

PETITIONER(S):
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1. JOY THOMAS, S/O.THOMAS, AGED 61,
CHAKKALAKKAL HOUSE, POTHANIKAD DESOM,
POTHANIKAD VILLAGE, POTHANIKAD P.O,
KOTHAMANGALAM TALUK, ERNAKULAM DIST.

2. MRS.ANCY JOY, W/O.JOY THOMAS, AGED 52,
CHAKKALAKKAL HOUSE, POTHANIKAD DESOM,
POTHANIKAD VILLAGE, POTHANIKAD P.O,
KOTHAMANGALAM TALUK, ERNAKULAM DIST.

BY ADV. SRI P.S.SUJETH

RESPONDENT(S):
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1. THE BRANCH MANAGER,
STATE BANK OF INDIA,THODUPUZHA ,
PALA ROAD, THODUPUZHA - 685 548.

2. THE AUTHORIZED OFFICER/CHIEF MANAGER,
STATE BANK OF INDIA, THODUPUZHA,
IDUKKI DIST. - 685 602.

BY SRI.TOM K.THOMAS, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 33596 of 2014 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: A TRUE COPY OF THE DEMAND NOTICE DATED 22/6/2011 ISSUED TO THE 3RD BORROWER.

EXHIBIT P2: A TRUE COPY OF THE REQUEST LETTER GIVEN BY THE 1ST PETITIONER DATED 15/2/2013.

EXHIBIT P3: A TRUE COPY OF THE POSSESSION NOTICE DATED 18/11/2014 ISSUED TO THE BORROWERS.

EXHIBIT P4: A TRUE COPY OF THE REPRESENTATION GIVEN TO THE RESPONDENT DATED 18/11/2014.

EXHIBIT P5: A TRUE COPY OF THE CASH RECEIPT DATED 1/12/2014.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33596 OF 2014 (Y)

Dated this the 7th day of January, 2015

J U D G M E N T

Petitioners who had availed three Kissan Credit Card loans of Rs.10,00,000/- each, along with another borrower, defaulted in timely 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 petitioner under Section 13(2) of the SARFAESI Act. Ext.P3 is the possession notice issued by the bank. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.P.S.Sujeth, the learned counsel appearing on behalf of the petitioners as als Sri.Tom K. Thomas, 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 amount in respect of the three credit card loans availed by the petitioners is stated to be Rs.15,61,905/-. Accordingly, if the petitioners pay the aforesaid amount of Rs.15,61,905/-, together with accrued interest thereon as on today, in ten equal monthly installments commencing from 30.1.2015, then the recovery steps initiated against them by the respondent bank for realisation of the loan amounts shall be kept in abeyance.
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> (ii) It is made clear that, apart from making installment payments in the manner aforementioned, the petitioners shall also furnish to the respondent bank the necessary documents that would enable the bank to renew the loan accounts for the subsequent years. The installment payments made by the petitioners as above would not absolve them from discharging the liability to the bank in respect of the original amounts sanctioned to them under the loan accounts.
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> (iii) If the petitioners commit 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