IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 33676 of 2014 (H)

PETITIONER(S):
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1. K.N.APPUKUTTAN AGED 66 YEARS
   PENSIONER, KANIYAMPARAMBIL, KOMALAPURAM VILLAGE
   AVALAOOKKUNNU.P.O., ALAPPUZHA-688006.

2. MANESH, S/O. APPUKUTTAN.
   - DO -

   BY ADV. SMT.K.PUSHPAVATHI

RESPONDENT(S):
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1. BRANCH MANAGER, ALAPPUZHA URBAN CO-OP.BANK LTD.
   NO. 67, CULLEN ROAD, ALAPPUZHA-688011.

2. THE AUTHORIZED OFFICER,
   ALAPPUZHA URBAN CO-OPERATIVE BANK LTD. NO. 67
   CULLEN ROAD, ALAPPUZHA-688011.

   R BY SMT.I.SHEELA DEVI, STANDING COUNSEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 33676 of 2014 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

P1. TRUE COPY OF NOTICE DATED 12-5-2014 ISSUED BY THE 2ND RESPONDENT.

P2. TRUE COPY OF THE NOTICE DATED NIL ISSUED BY THE ADVOCATE COMMISSIONER MS. K. PREETHA.

RESPONDENT(S)' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

sou.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.33676 of 2014

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Dated this the 13th day of February, 2015

<u>J U D G M E N T</u>

The petitioner who had availed of a term loan as well as a cash credit facility 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 under Section 13(2) of the SARFAESI Act. Ext.P2 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 Smt.Pushpavathi, the learned counsel for the petitioners and Smt.I.Sheela Devi, 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 instalments. Taking into account the plea of financial hardship raised by the petitioners, I dispose the writ petition with the following directions:-

i. The total amount outstanding from the petitioners to the respondent bank in respect of the loan is stated to be Rs.3,94,322/- together with accrued interest. Accordingly, if the petitioners pay the aforesaid amount of Rs. 3,94,322/- in ten equal and successive monthly instalments commencing from 02.03.2015, then further proceedings for recovery shall be kept in abeyance.

ii. It is made clear that if the petitioners commit a default in respect of any of the instalments, 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

mns/