

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WP(C).No. 34029 of 2015 (C)

PETITIONER(S):

1. M/S K.B.R. SHELTERS PVT. LTD.,
G-001, TRISTAR SUNRISE, 7TH MAIN,
MYTHRI, LAYOUT, HOPE FARM JUNCTION,
WHITE FIELD, BENGALURU - 560 066,
REPRESENTED BY ITS DIRECTOR, K.B. RAJEEV MENON.
2. K.B. RAJEEV MENON,
C/O. OF M/S.K.B.R. SHELTERS PVT. LTD., G-001,
TRISTAR SUNRISE, 7TH MAIN, MYTHRI LAYOUT,
HOPE FARM JUNCTION, WHITE FIELD,
BENGALURU - 560 066.
3. SREEHARI RAJEEV,
C/O.OF M/S.K.B.R. SHELTERS PVT. LTD., G-001,
TRISTAR SUNRISE, 7TH MAIN, MYTHRI LAYOUT,
HOPE FARM JUNCTION, WHITE FIELD,
BENGALURU - 560 066.

**BY ADVS.SMT.K.P.SANTHI
SMT.E.U.DHANYA**

RESPONDENT(S):

1. STATE BANK OF MYSORE,
BASAVANGUDI BRANCH BENGALURU, 73, KR ROAD,
BASAVANGUDI, BENGALURU - 560 004,
REPRESENTED BY THE AUTHORISED OFFICER.
2. THE AUTHORISED OFFICER,
STATE BANK OF MYSORE,
BASAVANAGUDI BRANCH BENGALURU,
73, KR ROAD, BASAVANAGUDI,
BENGALURU - 560 004.

BY ADV. SRI.LAL GEORGE, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

P1. TRUE COPY OF LETTER OF ARRANGEMENT DATED 21.09.2012

P2. TRUE COPY OF LETTER OF ARRANGEMENT DATED 21.09.2012

P3. TRUE COPY OF LETTER OF ARRANGEMENT DATED 25.6.2014

**P4:THE COPY OF THE STATEMENT OF ACCOUNTS FOR THE YEARS 26.10.2012 TO
19.08.2015**

**P5:THE COPY OF THE STATEMENT OF ACCOUNTS FOR THE YEAR 26.10.2012 TO
19.08.2015**

**P6:THE COPY OF THE STATEMENT OF ACCOUNTS FOR THE YEAR 26.10.2012 TO
19.08.2015**

**P7:THE COPY OF THE NOTICE DATED 28.08.2015 UNDER SECTION 13 (2) OF
SARAFESI ACT**

P8:THE COPY OF THE LETTER DATED 08.09.2015 OF THE 2ND RESPONDENT

P9:THE COPY OF THE REPLY DATED 21.10.2015 SUBMITTED BY THE PETITIONERS

P10:THE COPY OF THE LETTER DATED 30.10.2015 ISSUED BY THE BANK

**P11:THE COPY OF THE POSSESSION NOTICE DATED 03.11.2015 ISSUED BY THE
RESPONDENTS**

RESPONDENT(S)' EXHIBITS:

EXT.R1(a): PHOTOSTAT COPY OF THE LETTER DTD.10.7.2015.

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.34029 OF 2015 (C)

Dated this the 8th day of December, 2015

J U D G M E N T

The petitioners, who had availed of loans 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.P11 is the possession notice issued to the petitioners under 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.

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 respondent 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 loans availed by the petitioners, is stated to be Rs.4,87,74,849/- together with accrued interest from 28.07.2015. Accordingly, if the petitioners pay the said amount of Rs.4,87,74,849/- together with accrued interest from 28.07.2015, in fifteen equal and successive monthly installments commencing from 11.1.2016, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against them 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.

(iii) The respondent bank shall furnish the petitioners with an up-to-date statement of the dues

position so as to enable the petitioners to discharge the liability in accordance with the directions in this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/8/12/15