IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

WP(C).No. 34485 of 2015 (I)

PETITIONERS :
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1. SHAJITHA D., AGED 44,
   W/O.DASTHAKEER, 26/541 PATTANI STREET
   ZUBAIDA SHERIF KALYANAMANDAPAM,
   PALAKKAD – 678014.

2. DASTHAKEER
   AGED 51, S/O.HANEEFA RAVUTHAR,
   26/541 PATTANI STREET
   ZUBAIDA SHERIF KALYANAMANDAPAM,
   PALAKKAD – 678 014.

   BY ADVS.SRI.S.RENJITH
   SRI.K.R.PRATHISH

RESPONDENTS :
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1. STATE BANK OF INDIA
   PALAKKAD TOWN BRANCH, NO. 31/777, MARKET ROAD
   BIG BAZAR, PALAKKAD, REP BY ITS MANAGER-678 001.

2. STATE BANK OF INDIA
   RETAIL ASSET SMALL AND MEDIUM ENTERPRISES CITY
   CREDIT CENTRE (RASMECC 10213), SBI BUILDING
   ENGLISH CHURCH ROAD, PALAKKAD - 678001
   REPRESENTED BY ITS AUTHORISED OFFICER

   R1 & R2 BY ADV. SRI.R.S.KALKURA, SC

   THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 34485 of 2015 (I)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1:- **PHOTOCOPY OF THE NOTICE PUBLISHED IN MATHRUBHOOMY DAILY DTD. 21/5/2014 ISSUED BY THE RESPONDENT UNDER SECTION 13(4) OF THE SARFAESI ACT.**

EXT. P2:- **COPY OF THE NOTICE DTD. 20/9/2014 ISSUED BY THE ADVOCATE COMMISSIONER IN CRL.MP NO. 3290 OF 2014.**

EXT. P3:- **COPY OF SCHEDULE SHOWING THE PAYMENTS MADE BY THE PETITIONERS BEFORE THE IST RESPONDENT.**

EXT. P4:- **COPY OF THE NOTICE DTD. 9/11/2014 FROM THE ADVOCATE COMMISSIONER IN CRL.MP NO. 4668/2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.34485 of 2015

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Dated this the 16th day of November, 2015

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

The petitioners, who had availed of a 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. Exts.P2 and P4 are the notices 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 for the respondent bank.

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 overdue amount in respect of the loan availed by the petitioners as on today is stated to be Rs.64,632/- together with accrued interest. Accordingly, if the petitioners pay the aforesaid amount of Rs.64,632/- together with accrued interest in six equal and successive monthly instalments commencing from 30.11.2015, and continues to keep up the regular instalments as per the original loan schedule, further proceedings against the petitioners 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/16.11.15