IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

WP(C).No. 34863 of 2015 (G)

PETITIONER(S) :
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1. FATHIMA SALIM
   W/O. SALIM MANSOOR, AGED 45 YEARS
   SUNSHINE COTTAGE, ARAFA NAGAR
   HOUSE NO.113, VADAKKEVILA, KOLLAM.

2. SALIM MANSOOR
   S/O. MUHAMMED HANEEFA, AGED 55 YEARS
   SUNSHINE COTTAGE, ARAFA NAGAR
   HOUSE NO.113, VADAKKEVILA, KOLLAM.

   BY ADV. SRI.R.SATHISH KUMAR

RESPONDENT(S) :
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1. UCO BANK,
   KOLLAM BRANCH, KHAISE BUILDING, BEACH ROAD
   KOLLAM - 691001.
   REP. BY THE CHIEF MANAGER.

2. THE CHIEF MANAGER
   UCO BANK, KOLLAM BRANCH, KHAISE BUILDING
   BEACH ROAD, KOLLAM-691001.

   R1 & R2 BY ADV. SRI.GEORGE KARITHANAM VARGHESE, SC

   THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 34863 of 2015 (G)
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APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT P1: **TRUE COPY OF NOTICE DATED 21.4.2015 ISSUED BY THE 2ND RESPONDENT.**

EXHIBIT P2: **TRUE COPY OF THE POSSESSION NOTICE DATED 6.7.2015 ISSUED BY THE 2ND RESPONDENT.**

EXHIBIT P3: **TRUE COPY OF THE REPRESENTATION DATED 27.10.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL
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//TRUE COPY//

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.34863 of 2015

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Dated this the 21st day of November 2015

<u>JUDGMENT</u>

The petitioners, who had availed 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. Ext.P2 is the possession notice issued to the petitioners by the respondent 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 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 petitioner, I dispose the writ petition with the following directions:-

(i) The total outstanding amount, in respect of the loan, is stated to be Rs.23,78,695/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.23,78,695/- together with accrued interest from July 2015, in ten equal and successive monthly installments, commencing from 10.12.2015, 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.

(iii) It is made clear that nothing in this judgment will stand in the way of the petitioners to approach the respondent bank with a request for One Time Settlement, and the respondent bank from considering the same, in accordance with law.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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