IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

WP(C).No. 34868 of 2015 (G)

PETITIONERS:
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1. C.N.SREEKUMAR, AGED 56 YEARS,
   S/O.C.T.NARAYANAN, RESIDING AT
   BASERA NORTH, KULAMAKKAL P.O.,
   ALAPPUZHA DISTRICT.

2. HONEY RAHULAN, AGED 46 YEARS,
   W/O.C.N.SREEKUMAR, PROP. ARIAS FASHIONS &
   ARIA HOLIDAYS, ALAPPUZHA DISTRICT
   RESIDINGAT BASERA NORTH
   KULAMAKKAL P.O., ALAPPUZHA DISTRICT.

3. ABHILASH SREEKUMAR, AGED 24 YEARS,
   S/O.C.N.SREEKUMAR, PROP.ARIAS FASHIONS &
   ARIA HOLIDAYS, THIRUVALLA P.O.,
   PATHANAMTHITTA DISTRICT RESIDING AT
   BASERA NORTH, KULAMAKKAL P.O.
   ALAPPUZHA DISTRICT.

   BY ADV. SRI.S.SHAJAHAN (ADOOR)

RESPONDENTS:
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1. THE STATE BANK OF TRAVANCORE LTD.,
   REPRESENTED BY ITS DEPUTY GENERAL
   MANAGER(CREDIT RECOVERY) REGION
   ALAPPUZHA - 688 003.

2. THE BRANCH MANAGER
   THE STATE BANK OF TRAVANCORE LTD.,
   PAZHAVEEDU, ALAPPUZHA BRANCH,
   ALAPPUZHA 688 003.

   BY SRI.R.S.KALKURA, SC, SBT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 34868 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1	:	THE TRUE COPY OF THE NOTICE 29.9.2014 ISSUED TO THE 1ST & 2ND PETITIONERS
EXT.P2	:	TRUE COPY OF THE DEMAND NOTICE DATED 10.10.2014 ISSUED TO THE 3RD PETITIONER
EXT.P3	:	TRUE COPY OF THE DEMAND NOTICE DATED 29.9.2014 ISSUED TO THE 2ND PETITIONER
EXT.P4	:	TRUE COPY OF THE DEMAND NOTICE DATED 29.9.2014 ISSUED TO THE IST PETITIONER
EXT.P5	:	TRUE COPY OF THE DEMAND NOTICE DATED 25.10.2014 ISSUED TO THE 2ND PETITIONER
EXT.P6	:	TRUE COPY OF THE DEMAND NOTICE DATED 25.10.2014 ISSUED TO THE 3RD PETITIONER
EXT.P7	:	TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE RESPONDENT
EXT.P8	:	TRUE COPY OF THE LETTER SENT BY THE 1ST AND 2ND PETITIONERS TO THE CHAIRMAN OF THE BANK
EXT.P9	:	TRUE COPY OF THE LETTER SENT BY THE IST PETITIONER TO THE MANAGER OF THE BANK.
EXT.P10	:	TRUE COPY OF THE REPLY DATED NIL ISSUED BY THE IST PETITIONER
EXT.P11	:	TRUE COPY OF THE RECEIPT DATED 16.2.2015 ISSUED BY THE 2ND RESPONDENT
EXT.P12	:	TRUE COPY OF THE RECEIPT DATED 16.2.2015 ISSUED BY THE 2ND RESPONDENT
EXT.P13	:	TRUE COPY OF THE RECEIPT DATED 16.2.2015 ISSUED BY THE 2ND RESPONDENT
EXT.P14	:	TRUE COPY OF THE RECEIPT DATED 16.2.2015 ISSUED BY THE 2ND RESPONDENT
EXT.P15	:	TRUE COPY OF THE RECEIPT DATED 16.2.2015 ISSUED BY THE 2ND RESPONDENT
EXT.P16	:	TRUE COPY OF THE RECEIPT DATED 26.3.2015 ISSUED BY THE 2ND RESPONDENT

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EXT.P17	:	TRUE COPY OF THE RECEIPT DATED 25.3.2015 ISSUED BY THE 2ND RESPONDENT
EXT.P18	:	TRUE COPY OF THE RECEIPT DATED 26.3.2015 ISSUED BY THE 2ND RESPONDENT
EXT.P19	:	TRUE COPY OF THE RECEIPT DATED 25.3.2015 ISSUED BY THE 2ND RESPONDENT
EXT.P20	:	TRUE COPY OF THE RECEIPT DATED 28.3.2015 ISSUED BY THE 2ND RESPONDENT
EXT.P21	:	THE TRUE COPY OF THE E-AUCTION NOTICE 10.11.2015 PUBLISHED BY THE 2ND RESPONDENT
EXT.P22	:	THE TRUE COPY OF THE NOTICE 10.11.2015 ISSUED BY THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

ncd

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.34868 of 2015

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Dated this the 3rd day of December, 2015

J U D G M E N T

The petitioners, who had availed of eight loans, comprising of two cash credit loans and 6 term 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.P22 is the sale notice published by the respondent bank. 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.

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 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) It is stated by counsel for the respondent bank that out of the eight loans, in respect of the two cash credit loans and two term loans the period of the loan has already expired, and therefore, the petitioners would have to pay the entire amount outstanding under these loan accounts to the respondent bank. He further states that, in respect of the balance four term loans, the petitioners need pay only the overdue amount for the purposes of regularising the said loan accounts. The total amount that is required for the purposes of closure of four loan accounts and the regularisation of the four term loan accounts, is an amount of Rs.56,41,687 as on 01.12.2015. Accordingly, if the petitioners pay an amount of Rs.10,00,000/- on or before 17.12.2015 and the balance amount of Rs.46,41,687/- together with accrued interest in eight equal successive monthly instalments commencing from 20.01.2015, and continues to keep up the regular installment payments as per the original loan schedules in the four term loans that are sought to be regularised, then further proceedings initiated against him 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/3.12.15