IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

WP(C).No. 35005 of 2015 (A)

PETITIONER(S) :

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1. ALAVI MARUTHATH, AGED 45 YEARS,
   S/O.BEERAN KUTTY, MARUTHATH (H), THEKKUMPURAM P.O.,
   KOORAD, MALAPPURAM DISTRICT.

2. SMT.MUNDENCHERI JUMAILATH ASLAMA, AGED 40 YEARS,
   W/O.ALAVI, MARUTHATH (H), THEKKUMPURAM P.O.,
   KOORAD, MALAPPURAM DISTRICT.

BY ADVS.SRI.K.M.MOHAMED ABDURAHIMAN
SRI.C.T.BASHEER

RESPONDENT(S) :

AUTHORIZED OFFICER,
THE NILAMBUR CO-OPERATIVE URBAN BANK LTD., F.1043,
MALAPPURAM DISTRICT, REPRESENTED BY SABAREESAN,
DEPUTY GENERAL MANAGER/AUTHORIZED OFFICER.671 101.

BY ADV. SRI.DEVAPRASANTH.P.J.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 35005 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS :

P1: **TRUE COPY OF PETITION DATED 08/09/2015 FILED UNDER SECTION 14 OF SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST (SARFAESI) SET 2002 IN CHIEF JUDICIAL MAGISTRATE COURT, MANJERI.**

RESPONDENT(S)' EXHIBITS :
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.35005 of 2015

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Dated this the 19th day of November 2015

JUDGMENT

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.P1 is the petition filed by the respondent bank before the Chief Judicial Magistrate, under Section 14 of 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 on behalf of the petitioners as also the learned Standing Counsel appearing on behalf of the respondent.

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 petitioners, I dispose the writ petition with the following directions:-

(i) The total overdue amount, in respect of the loan, is stated to be Rs.1,83,730/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,83,730/- together with accrued interest in twelve equal and successive monthly installments commencing from 10.12.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against them by the respondent bank shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/