IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 35107 of 2015 (K)
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PETITIONER(S):
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1. **M/S.RITIN GRANITES,**
   REPRESENTED BY MANAGING PARTNER
   MR.ROY VARGHESE, OORAMANA P.O.,
   ERNAKULAM DISTRICT - 686 663.

2. **ROY VARGHESE, THALACHIRA HOUSE,**
   OORAMANA P.O., RAYAMANGALAM,
   ERNAKULAM DISTRICT - 686 663.

3. **T.V.GHEEVARGHESE, THALACHIRA HOUSE,**
   OORAMANA P.O., RAYAMANGALAM,
   ERNAKULAM DISTRICT - 686 663.

4. **MRS.JAIBY ROY, THALACHIRA HOUSE,**
   OORAMANA P.O., RAYAMANGALAM,
   ERNAKULAM DISTRICT - 686 663.

5. **RITHIN ROY, THALACHIRA HOUSE,**
   OORAMANA P.O., RAYAMANGALAM,
   ERNAKULAM DISTRICT - 686 663.

   BY ADVS.SRI.DINNY THOMAS
   SMT.ROSHNI MANUEL
   SRI.ALBERT V.JOHN

RESPONDENT(S):
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1. **SOUTH INDIAN BANK LTD.,**
   REPRESENTED BY ITS REGIONAL MANAGER,
   REGIONAL OFFICE, MUVATTUPUZHA.

2. **THE BRANCH MANAGER, SOUTH INDIAN BANK LTD.,**
   KOLENCHERRY, P.B.NO.13, 1ST FLOOR,
   ELOOR BUILDINGS, KOLENCHERY,
   ERNAKULAM - 682 311.

msv/

WP(C).No. 35107 of 2015 (K)
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3. **THE AUTHORIZED OFFICER, UNDER THE SARFAESI ACT, C/O. THE REGIONAL MANAGER, SOUTH INDIAN BANK, REGIONAL OFFICE, MUVATTUPUZHA - 686 661.**

4. **THE UNION OF INDIA, REPRESENTED BY THE SECRETARY TO THE MINISTRY OF FINANCE, MINISTRY OF FINANCE, DEPARTMENT OF FINANCIAL SERVICES, 3RD FLOOR JEEVAN DEEP BUILDING, SANSAD MARG, NEW DELHI - 110 001.**

R1-R3 BY ADV. SRI.GEORGE VARGHESE, SC
R4 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 35107 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE DEMAND NOTICE ISSUED UNDER S.13(8).

EXT.P2: TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.35107 of 2015

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Dated this the 20th day of November, 2015

J U D G M E N T

The petitioners, who had availed of a cash credit facility,a term loan and two mobi 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.P2 is the notice 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 cash credit facility availed by the petitioners is stated to be Rs.27,000/-. Similarly, the total amount outstanding for closure of the mobi loans is Rs.11,30,000/-+ Rs.8,12,000/-. In respect of the term loan availed by the petitioners it is submitted by counsel for the respondent bank that if the petitioners pay the amounts outstanding against the cash credit facility as also the mobi loans and complies with the formalities insisted upon by the respondent bank for continuation of the term loan, then the same can be regularised after paying the overdue amounts in the term loan. Accordingly, if the petitioners pay the aforesaid amount of Rs.19,69,000/- (Rs.11,30,000/-+Rs.8,12,000/- +Rs.27,000) together with accrued interest in six equal and successive monthly instalments commencing from 10.12.2015, and complies with the directions of the respondent bank with regard to the procedural formalities for continuing the term loan by paying the regular overdue instalments therein, 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/20.11.15

The order dated 01.02.2016 in I.A.No.1026/2016 in W.P(C). No.35107/2015 modifying the judgment dated 20.11.2015 in W.P.(C).No.35107/2015 is appended herewith.

Sd/-

Registrar (Judicial)