IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

WP(C).No. 35303 of 2015 (K)

PETITIONER(S):
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1. **VISWAMBHARAN A., E.C.41/108,**
   SRIVILASAM, PADANNAVU LANE,
   MANACAUD P.O., THIRUVANANTHAPURAM-9.

2. **SMT.VALSALA P., W/O.VISWAMBHARAN,**
   E.C.41/108, SRIVILASAM, PADANNAVU LANE,
   MANACAUD P.O., THIRUVANANTHAPURAM-9.

BY ADVS.SRI.ABRAHAM MATHEW (VETTOOR)
SRI.SRI.ANIL ABEY JOSE

RESPONDENT(S):
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1. **THE AUTHORISED OFFICER,**
   STATE BANK OF TRAVANCORE,
   STRESSED ASSETS RESOLUTION CENTRE,
   IIND FLOOR, CHANDRASEKHARAN NAIR STADIUM,
   PALAYAM, THIRUVANANTHAPURAM-695033.

2. **THE MANAGER,**
   STATE BANK OF TRAVANCORE,
   MANACAUD BRANCH,
   THIRUVANANTHAPURAM-695009.

BY ADV. SRI.JAWAHAR JOSE, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 35303 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS:

P1 : A TRUE COPY OF THE DEMAND NOTICE U/S.13(2)OF THE SARFAESI ACT ISSUED BY THE 1ST RESPONDENT DT.19-6-2014.

P1A : A TRUE COPY OF THE POSSESSION NOTICE ISSUED UNDER SEC.13(4)OF THE ACT DT.24-2-2015.

P2 : A TRUE COPY OF THE SALE NOTICE DT.25-8-2015 SERVED TO THE PETITIONERS.

P3 : A TRUE COPY OF THE REPRESENTATION MADE BY THE 1ST PETITIONER TO THE RESPONDENTS DT.28-9-2015.

P4 : A TRUE COPY OF THE STATEMENT OF ACCOUNT FURNISHED BY THE RESPONDENT BANK IN RESPECT OF THE TERM LOAN ACCOUNT NO.67171791838 FOR RS.20,00,000/-

P5 : A TRUE COPY OF THE ACCOUNT STATEMENT IN RESPECT OF THE WORKING CAPITAL LOAN ACCOUNT NO.67171791328 FOR RS.10,00,000/-

P6 : A TRUE COPY OF THE STATEMENT OF ACCOUNT IN RESPECT OF EXT.P4 RE-WORKED WITH THE ASSISTANC OF THE CHARTERED ACCOUNTANT.

P7 : A TRUE COPY OF THE STATEMENT OF ACCOUNT IN RESPECT OF EXT.P5 RE-WORKED WITH THE ASSISTANCE OF A CHARTERED ACCOUNTANT.

P8 : A TRUE COPY OF THE NOTICE ISSUED BY SRI.ARUN A.S.ADVOCATE COMMISSIONER DT.4-11-2015.

P9 : A TRUE COPY OF THE SECOND SALE NOTICE ISSUED BY THE 1ST RESPONDENT DT.4-11-2015.

P10 : TRUE COPY OF THE WRITE UP ABOUT THE RECOVERY STEPS IN THE MATHRUBHUMI DAILY DT.28-3-15.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.35303 OF 2015 (K)

Dated this the 1st day of December, 2015

J U D G M E N T

The 1st petitioner, who along with his son 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. Ext.P8 is the notice issued by the Advocate Commissioner and Ext.P9 is the copy of the sale notice issued 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.

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 amount outstanding from the petitioners to the respondent bank, is stated to be Rs.27,54,215/- together with accrued interest as on 23.11.2015. Accordingly, if the petitioners pay an amount of Rs.4,00,000/- on or before 17.12.2015, and the balance amount of Rs.23,54,215/- together with accrued interest from 23.11.2015, in twelve equal and successive monthly installments commencing from 20.1.2016, then the further proceedings initiated against them 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

prp/1/12/15