IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 35559 of 2015 (T)

PETITIONER(S):
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1. **K.V.MADHUSUDHANAN,**
   S/O VISWANADHA PILLAI, AGED 44,
   KOLLAT HOUSE, SAROJA MANDIRAM,
   NEERIKODE P.O., PARUR TALUK, PIN:683511.

2. **K.V.RAJENDRAN, S/O VISWANADHA PILLAI,**
   AGED 46, KOLLAT HOUSE, SAROJA MANDIRAM,
   NEERIKODE P.O., PARUR TALUK, PIN:683511.

BY ADV. SRI.SHAJI THANKAPPAN

RESPONDENT(S):

INDIA BULLS HOUSING FINANCE LIMITED,
M-62 & 63, FIRST FLOOR, CONNAUGHT PLACE,
NEW DELHI, PIN:110 001, REPRESENTED BY
ITS AUTHORISED OFFICER UNDER THE SARFAESI ACT 2002,
GANESH KRISHNAMOORTHY, S/O K.N.KRISHNAMOORTHY
AGED 43 YEARS, INDIA BULLS HOUSING FINANCE LTD.
PALARIVATTOM, COCHIN-25.

BY ADVS. SRI.P.RADHAKRISHNAN (1)
SRI.MADHU RADHAKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 35559 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: TRUE PHOTO COPY OF THE RECEIPTS SHOWING THE PAYMENT OF 5 INSTALLMENTS BY THE PETITIONERS.

EXHIBIT P2: TRUE PHOTO COPY OF THE PETITION FILED BY THE RESPONDENT AS C.M.P.NO.3626/2015 BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.

EXHIBIT P3: TRUE PHOTO COPY OF THE NOTICE DATED 17.11.2015 ISSUED BY THE ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 35559 of 2015
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Dated this the 4th day of December, 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.P3 is the notice issued by the Advocate Commissioner under 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 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 him 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.8,84,116/- together with accrued interest. Accordingly, if the petitioners remit the aforesaid amount of Rs.8,84,116/- together with accrued interest in six equal and successive monthly installments commencing from 20.12.2015, and continues to keep up the regular installments 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 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /5.12.15