IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

WP(C).No. 37690 of 2015 (I)

PETITIONER(S):
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1. M/S. CUVV AUTOMOBILES (P) LTD.,
   8/153 (14), CHUNNAMBUTHARA, PALAKKAD- 678 012,
   REPRESENTED BY ITS MANAGING DIRECTOR A.P.VIJAYAN,
   AGED 45 YEARS, S/O.T.P.NARAYANAN KUTTY MENON (LATE).

2. A.JAYALAKSHMI, AGED 84 YEARS,
   W/O.T.P.NARAYANAN KUTTY MENON (LATE), MILL HOUSE,
   VADAKKANTHARA, PALAKKAD - 678 012.

   BY ADVS.SRI.U.BALAGANGADHARAN
   SRI.V.JAYANANDAKUMAR

RESPONDENT(S) :
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1. THE AUTHORISED OFFICER,
   UNDER SARFAESI ACT AND CHIEF MANAGER,
   PUNJAB NATIONAL BANK CIRCLE OFFICE KOZHIKKODE,
   SHATHABDI BHAVAN, MINI BY PASS ROAD, GOVINDAPURAM
   KOZHIKODE - 673 016.

2. THE SENIOR MANAGER,
   PUNJAB NATIONAL BANK, BO COURT ROAD,
   SULTHANPET, PALAKKAD - 678 001.

   BY ADV. SRI.SANTHEEP ANKARATH, S.C

   THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 37690 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P-1: A TRUE COPY OF SANCTION ORDER DATED 28.03.2013 ISSUED BY SECOND RESPONDENT.

EXT.P-2: A TRUE COPY OF APPENDIX SHOWING TERMS AND CONDITIONS OF SANCTION OF LOAN TO THE PETITIONER DATED NIL.

EXT.P-3: A TRUE COPY OF NOTICE DATED 25.07.2015 ISSUED TO THE FIRST PETITIONER BY THE FIRST RESPONDENT.

EXT.P-4: A TRUE COPY OF NOTICE DATED 25.07.2015 ISSUED TO THE SECOND PETITIONER BY THE FIRST RESPONDENT.

EXT.P-5: A TRUE COPY OF POSSESSION NOTICE DATED 30.10.2015.

EXT.P-6: A TRUE COPY OF POSSESSION NOTICE DATED 30.10.2015.

EXT.P-7: A TRUE COPY OF POSSESSION NOTICE DATED 30.10.2015.

EXT.P-8: A TRUE COPY OF NOTICE DATED 23.11.2015 ISSUED BY THE FIRST RESPONDENT TO BOTH PETITIONERS.

EXT.P-9: A TRUE COPY OF NOTICE DATED 08.12.2015 ISSUED BY THE SECOND RESPONDENT TO FIRST PETITIONER.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.37690 of 2015

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Dated this the 15th 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.P7 is the possession notice issued to the petitioners 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 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 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 as on today, is stated to be Rs.1,83,00,000/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,83,00,000/- together with accrued interest in ten equal and successive monthly installments, commencing from 05.01.2016, 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 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.

(iii) The respondent bank shall furnish the petitioners with an up-to-date statement of the dues position, so as to enable the petitioners to effect repayment as per the directions in this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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