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. 37832 of 2015 (D)

PETITIONER(S):
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1. T.J.MUBARAK, AGED 44 YEARS,
S/O.T.M.JALEEL, THATTARATH HOUSE,
KADAVANTHARA, KADAVANTHARA P.O.,
ERNAKULAM DISTRICT.

2. SUMINA MUBARAK, AGED 39 YEARS,
W/O.T.M.JALEEL, THATTARATH HOUSE,
KADAVANTHARA, KADAVANTHARA P.O.,
ERNAKULAM DISTRICT.

BY ADVS.SRI.ABRAHAM K.JOHN
SRI.N.S.NAJEEB
SMT.C.G.ARUNDHATHI

RESPONDENT(S):
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1. THE STATE BANK OF TRAVANCORE
REPRESENTED BY ITS BRANCH MANAGER,
PERUMANOOR BRANCH, M.G.ROAD,
ERNAKULAM DISTRICT, PIN - 682 016.

2. THE AUTHORIZING OFFICER/ASST. GENERAL MANAGER,
STATE BANK OF TRAVANCORE,
PERUMANOOR BRANCH, M.G.ROAD,
ERNAKULAM DISTRICT, PIN - 682 016.

BY ADVS. SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN

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

msv/

WP(C).No. 37832 of 2015 (D)

<u>APPENDIX</u>

PETITIONER(S)' EXHIBITS:

EXT.P1 THE TRUE PHOTOSTAT COPY OF THE HOUSING LOAN BANK STATEMENT ACCOUNT NO.67152777939 SHOWING THE REMITTANCE MADE BY THE PETITIONERS.

EXT.P2: THE TRUE PHOTOSTAT COPY OF THE HOME DECOR LOAN BANK STATEMENT ACCOUNT NO.6721651008 SHOWING THE REMITTANCE MADE BY THE PETITIONERS.

EXT.P3: THE TRUE PHOTOSTAT COPY OF THE LAWYER NOTICE DTD.26.6.2015.

EXT.P4: THE TRUE PHOTOSTAT COPY OF THE NOTICE DTD.6.10.2015 OF THE 2ND RESPONDENT.

EXT.P5: THE TRUE PHOTOSTAT COPY OF THE NOTICE DTD.9.12.2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONERS.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.37832 of 2015

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Dated this the 15th day of December, 2015

J U D G M E N T

The petitioners, who 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.P5 is the possession notice. 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.

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 respondent 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 availed by the petitioners is stated to be Rs.2,50,000/- together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.2,50,000/- together with accrued interest in six 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 further proceedings for recovery 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.

(iii) The respondent bank shall furnish the petitioners with an up-to-date statement of accounts within a week from today so as to enable the petitioners to comply with the directions in the judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/15.12.15