IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

WP(C).No. 38325 of 2015 (M)
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PETITIONER(S) :
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1. **ANOOP C.R., AGED 30 YEARS,**
   S/O.REJI, CHEARUVEETTIL, KANJIRAM P.O.,
   KOTTAYAM TALUK, KOTTAYAM DISTRICT.

2. **CHADHU C.R., AGED 35 YEARS,**
   S/O.REJI, CHEARUVEETTIL, KANJIRAM P.O.,
   KOTTAYAM TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.J.ABHILASH

RESPONDENT(S) :

THE KOTTAYAM CO-OPERATIVE URBAN BANK LTD NO.421,
KOTTAYAM, REPRESENTED BY ITS SECURITIZATION OFFICER,
PIN- 686 001.

BY ADV. SRI.SURIN GEORGE IYPE, S.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 38325 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: **TRUE COPY OF THE C.M.P.NO.3055/2015 FILED BEFORE C.J.M COURT KOTTAYAM DATED 08.10.2015.**

EXHIBIT P2: **TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 27.11.2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.38325 of 2015

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Dated this the 17th 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.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 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.2,55,000/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.2,55,000/- 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 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 within 10 days from today, 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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