IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(C).No. 38332 of 2015 (N)

PETITIONERS:

1. JIMMECHAN K.V. AGED 33 YEARS
   S/O.VARKEY, KANNEZHATH VEEDU, SREEKANDAPURAM
   SREEKANDAPURAM P.O, KANNUR DISTRICT. 670 631.

2. SHERRY K.V
   S/O.VARKEY, KANNEZHATH VEEDU, SREEKANDAPURAM
   SREEKANDAPURAM P.O, KANNUR DISTRICT. 670 631.

   BY ADVS.SRI.V.R.GOPU
   SRI.J.NARAYANAN PILLAI

RESPONDENTS:

1. KERALA GRAMIN BANK REP. BY ITS CHIEF MANAGER,
   HEAD OFFICE, MALAPPURAM 676 505.

2. THE AUTHORISED OFFICER
   KERALA GRAMIN BANK, HEAD OFFICE, MALAPPURAM 676 505.

   BY STANDING COUNSEL SRI.K.M.ANEESH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 38332 of 2015 (N)

APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT P1. COPY OF THE DEMAND NOTICE ISSUED IN FAVOUR OF THE IST PETITIONER DATED 31.10.15.

EXHIBIT P2. COPY OF THE DEMAND NOTICE ISSUED IN FAVOUR OF 2ND PETITIONER DATED 6.11.15.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.38332 of 2015

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Dated this the 22nd day of December 2015

<u>JUDGMENT</u>

The petitioners, who had availed a housing loan as also a mortgage 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. Exts.P1 and P2 are the notices issued to the petitioner under Section 13(2) of 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 them to remit the balance

amounts outstanding to the bank in easy installments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:-

(i) The total overdue amount, in respect of the housing loan, is stated to be Rs.3,63,357/- together with accrued interest. Similarly the total outstanding amount in respect of the mortgage loan is stated to be Rs.2,92,000/-. Accordingly, if the petitioners remit the total amount of Rs.6,55,357/- together with accrued interest in eight 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 in housing loan, 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 petitioner with an up-to-date statement of the dues position, within 10 days from today, so as to enable the petitioner to effect repayment as per the directions in this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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