IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

WP(C).No. 38507 of 2015 (K)

PETITIONER(S):

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1. GOPALAKRISHNA PILLAI, AGED 58 YEARS,
   S/O.N.BHASKARA PANICKER, PULIMOOTTIL HOUSE,
   MANNANCHERRY PO, ALAPPUZHA DISTRICT.

2. RAJALAKSHMI P.,
   W/O.GOPALAKRISHNA PILLAI, PULIMOOTTIL HOUSE,
   MANNANCHERRY PO, ALAPPUZHA DISTRICT.

3. MANUMOHAN G.,
   S/O.GOPALAKRISHNA PILLAI, PULIMOOTTIL HOUSE,
   MANNANCHERRY PO ALAPPUZHA DISTRICT.

   BY ADV. SRI.P.C.HARIDAS

RESPONDENT(S):

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1. UNION OF INDIA,
   REPRESENTED BY ITS SECRETARY TO THE DEPARTMENT OF FINANCE,
   GOVERNMENT SECRETARIAT
   NEW DELHI - 110 001.

2. BANK OF BARODA,
   ALLEPPEY BRANCH, J&J AVENUE, MULLACKAL,
   VSCB ROAD, NEAR YMCA BRIDGE, ALAPPUZHA 688011,
   REPRESENTED BY ITS BRANCH MANAGER.

3. THE AUTHORISED OFFICER AND CHIEF MANAGER,
   (UNDER SARFAESI ACT), BANK OF BARODA, ALLEPPEY BRANCH,
   J&J AVENUE, MULLACKAL, VSCB ROAD,
   NEAR YMCA BRIDGE, ALAPPUZHA 688011.

   R1 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
   R2 & 3 BY SRI.K.M.ANEESH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 38507 of 2015 (K)
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APPENDIX

PETITIONER(S)' EXHIBITS

P1 - **TRUE COPY OF THE MEDICAL RECORDS OF THE 2ND PETITIONER.**

P2 - **TRUE COPY OF THE NOTICE DATED 11.12.2015 ISSUED BY THE 3RD RESPONDENT U/S.13(4) OF THE SARFAESI ACT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.38507 of 2015

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Dated this the 23rd day of December, 2015

J U D G M E N T

The petitioners, who had availed of cash credit facilities 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 under Section 13(4) 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 petitioners, I dispose the writ petition with the following directions:-

(i) The total overdue amount, in respect of loan availed by the petitioners, as of today is stated to be Rs.76,42,000/- together with accrued interest. Accordingly, if the petitioners pay the aforesaid amount of Rs.76,42,000/- together with accrued interest in three equal and successive monthly installments commencing from 05.01.2016, and continues to comply with the conditions stipulated by the respondent bank for continuing the cash credit facility, then further proceedings for recovery 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, within a period of ten days from today, provide the petitioners with an up-to-date statement of accounts so as to enable the petitioners to discharge the liability in accordance with the directions of this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/23.12.15