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. 39184 of 2015 (W)

PETITIONER(S):

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1. MARIYAM, W/O.AMMED, AGED 75 YEARS,
   CHERIYAMPOYIL HOUSE, POONATH.P.O.,
   KOTTOOR, KOZHIKODE-673 614.

2. AYISHU, W/O. MOITHEEN KUTTY, AGED 39 YEARS,
   CHERIYAMPOYIL HOUSE, POONATH.P.O., KOTTOOR,
   KOZHIKODE-673 614

BY ADVS.SRI.SANTHARAM.P
SMT.REKHA ARAVIND

RESPONDENT :

KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, P.B.NO.503, CHALAPPURAM POST,
KOZHIKODE,
REPRESENTED BY AUTHORIZED OFFICER/SENIOR MANAGER,
PIN-673 002.

BY SRI.R.SUDHISH, SC, KOZHIKODE DIST.CO.OP. BANK, LTD

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

sts

WP(C).NO.39184/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE DEMAND NOTICE DATED 09/06/2015 PUBLISHED IN MATHRUBHUMI DAILY BY THE RESPONDENT BANK.

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. 39184 of 2015

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Dated this the 23rd 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.P1 is the notice 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 petitioner 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, is stated to be Rs.2,09,481/- together with accrued interest. Accordingly, if the petitioners remit the aforesaid amount of Rs.2,09,481/- together with accrued interest in ten equal and successive monthly installments commencing from 05.01.2016, and continue 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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