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. 39239 of 2015 (D)

PETITIONER(S) :
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1. MRS. JAYASREE.L,
   MANGALATH, SARATHY NAGAR 37, TKMC P.O.,
   KARIKKODU, KOLLAM.

2. MR.NIMESH RAVEENDRAN,
   MANGALATH, SARATHY NAGAR 37, TKMC P.O.,
   KARIKKODU, KOLLAM.

BY ADVS.SRI.PRATHEESH.P
SMT.S.SEETHA

RESPONDENT(S) :
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1. THE BRANCH MANAGER,
   INDIAN OVERSEES BANK, TANGASSERI BRANCH,
   KOLLAM- 691 007.

2. THE AUTHORIZED OFFICER,
   INDIAN OVERSEES BANK, TANGASSERI BRANCH,
   KOLLAM- 691 007.

BY ADV.SRI.SUNIL SHANKAR, S.C, INDIAN OVERSEAS BANK

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

Msd.

WP(C).No. 39239 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS :
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EXHIBIT P1: **THE COPY OF THE NOTICE ISSUES TO THE PETITIONERS BY THE 2ND RESPONDENT DATED 30.11.2015.**

EXHIBIT P2: **THE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 16.12.2015.**

RESPONDENT(S)' EXHIBITS :
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.39239 of 2015

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Dated this the 22nd day of December, 2015

J U D G M E N T

The petitioners, who had availed of loans 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 notice issued 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 petitioners, I dispose the writ petition with the following directions:-

(i) The total overdue amount, in respect of the loans availed by the petitioners, as on today is stated to be Rs.2,07,660/- together with accrued interest. Accordingly, if the petitioners pay the aforesaid amount of Rs.2,07,660/- together with accrued interest in eight equal and successive monthly installments commencing from 05.01.2016, and continues to keep up the regular installments as per the original loan schedules in both the term loan accounts, 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, within a period of two weeks 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/22.12.15