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. 39553 of 2015 (T)

PETITIONER(S):

SOORAJ MON, AGED 47 YEARS,
S/O.R.R.RAHULAN, PROPRIETOR, A.R.AGENCIES,
NEAR HOMEO DISPENSARY CHERAI P.O.,
ERNAKULAM, RESIDING AT PULLARKATT HOUSE,
CHERAI P.O., ERNAKULAM DISTRICT.

BY ADVS.SRI.A.N.SANTHOSH
SRI.G.BALAMURALEEDHARAN (PARAVUR)

RESPONDENT(S):

1. THE BRANCH MANAGER,
STATE OF BANK INDIA, CHERAI BRANCH,
ERNAKULAM DISTRICT-683514.

2. STATE BANK OF INDIA, RASMECCC,
ALUVA, KHAJA SHOPPING COMPLEX, 1ST FLOOR,
RS ROAD, ALUVA, ERNAKULAM, PIN-683101,
REPRESENTED BY ITS AUTHORIZED OFFICER.

BY SMT.S.AMBILY

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. 39553 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - **TRUE COPY OF THE NOTICE DATED 13/10/15 ISSUED UNDER SECTION 13(2) ISSUED UNDER SECTION 13(2) OF THE SARFESI ACT TO THE 1ST PETITIONER**

P2 - **TRUE COPY OF THE NOTICE DATED 13/10/15 ISSUED UNDER SECSTION 13(2) OF THE SARFAESI ACT TO THE 2ND PETITIONER.**

P3- **COPY OF THE RECEIPT FOR HAVING PAID RS.50,000/- AND RS.45,000/-**

P4- **COPY OF THE POSSESSION NOTICE DATED 18/12/15 ISSUED BY THE R2.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.39553 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 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 under Section 13(2) of the SARFAESI Act'. Ext.P4 is the possession notice. 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 for the petitioners and the learned Standing Counsel appearing on behalf of the respondent bank.

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 instalments. Taking into account the plea of financial hardship raised by the petitioners, I dispose the writ petition with the following directions:-

(i) The total amount outstanding from the petitioners to the respondent bank, in respect of the loan is stated to be Rs.6,80,581/- together with accrued interest. Accordingly, if the petitioners pay the aforesaid amount of Rs.6,80,581/- together with accrued interest in ten equal and successive monthly instalments commencing from 05.01.2016, the recovery steps initiated against the petitioners 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 instalments, 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 dues within ten days from today, so as to enable the petitioner to comply with the directions in this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/23.12.15