

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 20TH DAY OF JULY 2017/29TH ASHADHA, 1939

WP(C).No. 23877 of 2017 (H)

PETITIONER(S):

- 1. JAYARAJ T.C, AGED 43 YEARS,
S/O.THOMAS STEPHEN, GRACE NIVAS, CHOONDUPALAKA
KATTAKADA.P.O.**
- 2. SINIMOL
W/O.JAYARAJAGED 40, GRACE NIVAS, CHOONDUPALAKA
KATTAKADA.P.O.**

**BY ADVS.SRI.L.D.LIJO ROY
SRI.E.HARIDAS**

RESPONDENT(S):

- 1. THE AUTHORISED OFFICER
REVENUE RECOVERY CELL SBI, LMS COMPOUND
MUSIUM JUNCTION, MUSIUM.P.O.
THIRUVANANTHAPURAM. PIN-695004**
- 2. CHIEF MANAGER
SBI(SBT), POOVACHAL BRANCH, POOVACHAL.P.O.,
KATTAKADA, THIRUVANANTHAPURAM. PIN-695575**

BY SRI.R.S.KALKURA, SC, SBI

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20-07-2017, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

hmm

WP(C).No. 23877 of 2017 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

EXIHIBIT P1 : FIRST PAGE OF ACCOUNT PASSBOOK
EXIHIBIT P2 : RELEVANT PAGES SHOWING THE REPAYMENT
EXIHIBIT P3 : POSSESSION NOTICE DATED 12.07.2017

RESPONDENT(S)' EXHIBITS : NIL

// TRUE COPY //

PA TO JUDGE

hnh

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.23877 of 2017

Dated this the 20th day of July, 2017

JUDGMENT

The petitioners, who had availed two loans, one agricultural term loan and a cash credit facility, 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.P3 is the possession notice issued to the petitioners under 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 term loan availed by the petitioners, as on today, is stated to be Rs.6,48,868/-. Similarly, the total outstanding amount in respect of the cash credit facility availed by the petitioners is stated to be Rs.2,27,041/- Accordingly, if the petitioners pay the total amount of Rs.8,75,909/- (6,48,868/- + Rs.2,27,041/-) together with accrued interest and other charges in 12 equal and successive monthly installments commencing from 31.07.2017, and continues to keep up the regular installment payments as per the original loan schedule in the term loan account, 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 together with interest, within 10 days from today so as to enable the petitioners to discharge their liability in accordance with the directions in this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/

W.P.(c).No.23877 of 2017

: 3 :