(2023) 06 KL CK 0427

In the High Court Of Kerala

Case No : Writ Petition (C) No. 15572 Of 2023

Aboobacker Siddique N.P	APPELLANT
Vs	
Canara Bank	RESPONDENT

Date of Decision : 30-06-2023

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2023) 06 KL CK 0427

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : K.Mohanakannan, H.Praveen, Gopikrishnan Nambiar

Final Decision : Disposed Of

Judgement

C.S.Dias, J

1. The writ petition is filed to direct the respondents to permit the petitioners to pay outstanding amount in instalments and regularise the loan account.

2. The petitioners' case is that they had availed financial assistance from the first respondent – Bank to do textile business by creating an equitable mortgage. However, due to reasons beyond their control, they could not pay off the instalments on time. The respondents have now proceeded under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, 'Act') and have taken symbolic possession of the properties. Nonetheless, petitioners are prepared to pay the outstanding amount in instalments. Hence, the writ petition.

3. Heard; Sri.K.Mohanakannan, the learned counsel appearing for the petitioners and Sri.Gopikrishnan Nambiar, the learned counsel appearing for the respondents.

4. Sri.Gopikrishnan Nambiar, on instructions, submitted that, the petitioners had availed three loans from the first respondent bank namely, (i) an overdraft facility wherein the outstanding amount is Rs.19,82,000/- (ii) a term loan

wherein the outstanding amount is Rs.1,85,000/- (iii) a term loan wherein the outstanding amount is Rs.3,74,000/-. The respondents have filed O.A.441/2023 before the Debt Recovery Tribunal, Ernakulam. The respondents cannot regularise the loan account and permit the petitioners to pay the overdue amount. Nonetheless, the respondents are willing to permit the petitioners to pay the outstanding amounts of three loan accounts in six equated monthly instalments. The said submission is recorded.

5. The learned counsel appearing for the petitioners submitted that the petitioners may be granted atleast ten instalments to pay the outstanding amount.

6. Having considered the pleadings and materials on record and the submission made by the learned counsel appearing for the parties, to provide the petitioners one last opportunity to pay off the loan amount, I am inclined to exercise the powers of this Court under Article 226 of the Constitution of India and dispose of the writ petition.

Resultantly, I dispose of the writ petition in the following manner:

(i) The respondents are directed to defer further coercive proceedings pursuant to Exts.P1 and P2, to enable the petitioners to pay the outstanding amounts in instalments.

(ii) The petitioners are permitted to pay the outstanding amounts of the three accounts as stated above with future interest and cost to the first respondent - Bank - in ten equated monthly instalments commencing from 1.8.2023.

(iii) Needless to mention, if the petitioners commit default of the condition ordered above, he would lose the benefit of this judgment and the respondents would be at liberty to proceed with recovery proceedings from the stage it presently stands.

(iv)It is made clear that, no further application for modification/extension of time shall be entertained.

