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(2021) 01 KL CK 0228

In the High Court Of Kerala

Case No : Writ Petition (C) No. 284 Of 2021

Ashai Kumar And Ors APPELLANT

Vs

Trivandrum Co-Operative Urban Bank Ltd And Ors RESPONDENT

Date of Decision : 06-01-2021

Acts Referred:

Citation : (2021) 01 KL CK 0228

Hon'ble Judges : Devan Ramachandran, J

Bench : Single Bench

Advocate : S. Jathin Das, S. Soumya Issac, Nisha George

Judgement

1. Through this writ petition, the petitioners call into question certain proceedings initiated and being pursued by the respondent Bank under the

provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act ('the SARFAESI Act' for brevity).

2. I have heard the learned counsel for the petitioners and the learned counsel for the respondent Bank.

3. As I proceed to consider the reliefs prayed for by the petitioners herein, I am conscious that I am jurisdictionally proscribed from entering into any

enquiry or consideration of the legality or otherwise of the orders impugned in this writ petition on account of the imperative statutory provisions and

the binding judicial pronouncements, especially that of the Hon'ble Supreme Court in Union Bank of India v. Satyawati Tondon [(2010) 8 SCC 110]

and in Authorised Officer, State Bank of Travancore and Another v. Mathew K.C. [2018 (1) KLT 784]. I, therefore, cannot and do not propose to

consider any of the legal contentions raised by the petitioners on its merits.

4. However, obviously being aware of this, the learned counsel appearing for the

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petitioners has prayed that notwithstanding the limitations of

jurisdiction as aforementioned, the petitioners may be granted some leniency or latitude in order to enable them to pay off the overdue amounts in

installments.

5. I, therefore, enquired with the learned counsel for the Bank as to whether the request on the part of the petitioners can be allowed, especially on

account of the fact that the Banks are only interested in recovering and not in maintaining and keep pending litigations and legal proceedings against

such recovery. The learned counsel has fairly submitted that the Bank is concerned about recovery at the earliest and that if the petitioners pay off the

dues quickly, it would be to their interest also.

6. In view of the fact that the proceedings initiated by the Bank would consume time to culminate in total recovery and taking into account the

financial constraints and burden that have been alleged and pleaded by the petitioners, I am inclined to dispose of this writ petition allowing them an

opportunity to pay off the overdue amounts demanded by the Bank.

7. The learned counsel for the Bank at this time submits that the petitioners can be allowed to pay off the overdue amount of Rs.3,22,645/- as on

06.01.2021 in not more than ten instalments commencing from 21.01.2021 and that the account can thus be regularised by the Bank.

8. The learned counsel for the petitioners says that the petitioners are agreeable to the above offer made by the Bank and therefore that the writ

petition may be ordered granting permission to the petitioners to pay off the amount in the manner as afore.

9. In such circumstances, I direct the petitioners to pay off the aforementioned overdue amount of Rs.3,22,645/- as on 06.01.2021, along with

applicable charges and interest, in ten equal monthly instalments commencing from 21.01.2021. They shall also, in addition to this, pay the regular

EMIs without fail. If such payment is made by the petitioners, their loan account would stand regularised and they would then be at liberty to service

the account as per the terms of the loan sanctioned. It goes without saying that if there is any default in making the payment as directed above, the

benefit granted under this judgment would stand vacated and the Bank will be at liberty to recover the entire liability from the petitioners by continuing

with the proceedings from the stage it is on this date.

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10. I make it clear that the directions in this judgment are peremptory in nature and that the petitioners will have to comply with the same meticulously.

The writ petition is ordered accordingly.

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