

(2023) 05 KL CK 0235

In the High Court Of Kerala

Case No : Writ Petition (C) No. 16987 Of 2023

Babusenana

APPELLANT

Vs

Kerala State Co Operative Bank Ltd

RESPONDENT

Date of Decision : 29-05-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 05 KL CK 0235

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : R.T.Pradeep, P.Bijimon, M.Bindudas, P.C.Sasidharan, Thomas Abraham

Final Decision : Disposed Of

Judgement

C.S Dias, J

1. The writ petition is filed to direct the respondents to permit the petitioner to pay off the overdue amount in equated monthly instalments.
2. The petitioner's case is that he had availed a loan from the 1st respondent bank by creating an equitable mortgage. Due to reasons beyond his control, the petitioner could not pay off the EMIs on time. The respondents have initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, 'Act') and are threatening to take physical possession of the secured asset. The petitioner is prepared to pay off the overdue amount in instalments. Hence, the writ petition.
3. Heard; Sri. R.T.Pradeep, the learned counsel appearing for the petitioner and Sri. Thomas Abraham, the learned counsel appearing for the respondents.
4. Sri.Thomas Abraham, on instructions, submitted that as on today, the overdue amount is Rs.11,53,827/-.

The respondents are ready to accept the overdue amount in ten instalments. The

said submission is recorded. The learned counsel appearing for the petitioner submitted that the petitioner is prepared to accept the offer. He also submitted that just before the filing of this writ petition, the petitioner had deposited an amount of Rs.1,50,000/-with the respondent bank. Therefore, the petitioner may be granted a breathing time to start payment of the instalment amounts.

5. Having considered the pleadings and materials on record and in the light of the submission made by the learned counsel appearing for parties, to provide the petitioner one last opportunity, 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, the writ petition is disposed of in the following manner:

(i) The respondents are directed to defer further proceedings pursuant to Exts.P1 to P3, to enable the petitioner to pay off the overdue amount.

(ii) The petitioner shall pay off stated above, with interest and monthly instalments commencing with regular EMIs. the overdue amount as costs, in ten equated from 10.7.2023, along

(iii) Needless to mention, if the petitioner commits default in respect of any of the conditions ordered above, he will 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.

The writ petition is disposed of accordingly.