(2022) 07 KL CK 0200

In the High Court Of Kerala

Case No : Writ Petition (C) No. 23630 Of 2022

Baiju K S/o. Mohanan APPELLANT

Vs

Union Bank Of India RESPONDENT

Date of Decision : 21-07-2022

Acts Referred:

Citation : (2022) 07 KL CK 0200

Hon'ble Judges : Gopinath P, J

Bench : Single Bench

Advocate : P.Shrihari, Mary Nithiya K.J, Sadchith.P.Kurup

Final Decision : Disposed Of

Judgement

Gopinath P., J

1. Petitioner has approached this Court challenging proceedings initiated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (hereinafter referred to as the SARFAESI Act) for recovery of the amounts due in respect of three loans availed by the petitioner (two cash credit facilities and one home loan) from the respondent bank.

2. During the course of hearing, the petitioner has confined the relief to an opportunity for repaying the amounts due in instalments.

3. It was submitted on behalf of the respondent bank that the petitioner committed default in repayment of the above loans. It is submitted that the total liability in respect of two cash credit facilities, which cannot be regularised, is Rs.16,23,648/- while the overdue amount in respect of the home loan is Rs.10,86,348/-. (Both amounts as on 21-07-2022). It is further submitted that though proceedings for recovery have been initiated, as a matter of indulgence, the respondent bank is willing to accept repayment of the aforesaid amounts in limited instalments.

4. I have heard the learned counsel for the petitioner as well as the learned

Standing Counsel for the respondent.

5. Having regard to the circumstances of the case and the situation now prevailing, apart from the submissions made as recorded above, I am of the view that the petitioner can be granted an opportunity to repay the outstanding amount in respect of two cash credit facilities and overdue amount in respect of home loan, in twenty (20) instalments.

6. Accordingly, there will be a direction to the respondent bank to accept repayment of the entire outstanding amount of Rs.16,23,648/- in respect of two cash credit facilities and the overdue amount of Rs.10,86,348/- in respect of home loan, along with bank charges from the petitioner and regularise the loan account of the petitioner in respect of home loan on the following conditions:

(i) The outstanding amount of Rs.16,23,648/- in respect of two cash credit facilities together with any accured interest/costs shall be repaid in twenty (20) equated monthly instalments.

(ii) The overdue amount of Rs.10,86,348/-in respect of home loan together with any accrued interest and charges shall also be repaid in twenty (20) equated monthly instalments.

(iii) The first instalment in rsepect of all the loans shall be paid on or before 05-08-2022 and subsequent instalments shall be paid on or before 5th day of every succeeding month.

(iv) Petitioner shall continue to pay the regular EMIs in respect of home loan along with the instalments as directed above.

(v) In the event of default of any one instalment, the respondent bank shall be entitled to proceed in accordance with law.

(vi) In order to enable the petitioner to repay the entire amounts, all coercive proceedings shall be kept in abeyance.

The writ petition is disposed of as above.

