
(2023) 06 KL CK 0152
In the High Court Of Kerala
Case No : Writ Petition (C) No.10791 Of 2023

Baiju K.P

APPELLANT

Vs

Sunadaram Home Finance Limited

RESPONDENT

Date of Decision : 12-06-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 06 KL CK 0152

Hon'ble Judges : C.S.Dias, J

Bench : Single Bench

Advocate : P.Mohamed Sabah, Libin Stanley, Saipooja, Sadik Ismayil, R.Gayathri, M.Mahin Hamza, Alwin Joseph, Vino Jose

Final Decision : Disposed Of

Judgement

C.S.Dias, J

1. The writ petition is filed to direct the respondent to permit the petitioner to pay off the outstanding amount in equated monthly instalments.
2. The petitioner's case is that he had availed a loan from the respondent – Finance Company - by creating an equitable mortgage. Due to reasons beyond his control, he could not pay off the instalments on time. The respondent has initiated proceedings against the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, 'Act'). The petitioner is prepared to pay off the outstanding amount in equated monthly instalments. Hence, the writ petition.
3. Heard; P.Mohamed Sabah, the learned counsel appearing for the petitioner and Sri.Vino Jose, the learned counsel appearing for the respondent.
4. Sri.Vino Jose, on instructions, submitted that as on today the outstanding amount is Rs.2,52,599/-. The tenure of the loan is over. The respondent is ready to permit the petitioner to pay off the entire outstanding amount in three

equated monthly instalments. The said submission is recorded.

5. The learned counsel appearing for the petitioner submitted that as the tenure of the loan is for ten years, the petitioner may be granted at least ten equated monthly instalments to pay off 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 petitioner 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 respondent is directed to defer further coercive proceedings pursuant to Ext P1 notice, to enable the petitioner to pay the outstanding amount in instalments.

(ii) The petitioner is permitted to pay the above outstanding amount with future interest and cost to the respondent in ten equated monthly instalments commencing from 12.7.2023.

(iii) Needless to mention, if the petitioner commits default of the condition ordered above, he would lose the benefit of this judgment and the respondent 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.