
(2017) 02 KL CK 0097
In the High Court Of Kerala
Case No : 4219 of 2017 (B)

BIJI SUDHIKUMAR

APPELLANT

Vs

INDIAN OVERSEAS BANK

RESPONDENT

Date of Decision : 22-02-2017

Acts Referred:

Citation : (2017) 02 KL CK 0097

Hon'ble Judges : K.Vinod Chandran

Bench : SINGLE BENCH

Advocate : E.V.MOLY, SUNIL SHANKER, SUNIL SHANKAR

Final Decision : Disposed

Judgement

1. The petitioner availed a term loan from the respondent Bank. On default being committed the respondent initiated proceedings under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI" for short) against the property of the petitioner.

2. The liability and the default is admitted. Considering the facts of the case and the alleged impecunious circumstances of the petitioner, this writ petition is disposed of on the following terms.

(i) The total defaulted arrears is said to be Rs.2,64,774/- as on 08.02.2017.

(ii) The respondent shall grant ten monthly instalments for the payment of the arrears, starting from 22.03.2017, which shall be paid along with the regular EMIs, on the due dates.

(iii) Recovery proceedings shall be kept in abeyance on condition that the remittances as per this order are made without any default.

(iv) On the petitioner making two defaults in repaying either the instalments or the regular EMIs, the recovery steps initiated shall revive and continue.

(v) The respondent shall issue a statement of the future interest accrued on the

defaulted arrears every three months and the same shall be paid along with the next month's instalment, as granted by this Court, and after satisfaction of the arrears, as the 11th instalment.

(vi) On the petitioner satisfying the entire arrears, the recovery proceedings shall be unenforceable and the petitioner allowed regularisation by permitting EMI remittance as per the original agreement.

3. The Writ Petition is disposed of as above, making it clear that the respondent will be free to proceed with the recovery if the above conditions are not complied with.