

(2024) 08 KL CK 0065

In the High Court Of Kerala

Case No : Original Petition (DRT) No.272 of 2024

Biju M Johny

APPELLANT

Vs

Chief Manager (Authorised Officer)

RESPONDENT

Date of Decision : 30-08-2024

Acts Referred:

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 — Section 13(2)

Citation : (2024) 08 KL CK 0065

Hon'ble Judges : Basant Balaji, J

Bench : Single Bench

Advocate : Alexander Joseph, Akhilasree Bhaskaran, Antony Nikhil Remelo, Tom K. Thomas

Judgement

Basant Balaji, J

1. The petitioner was served a notice under Section 13(2) of the SARFAESI Act and he filed S.A.No.615/2022 before the Tribunal. In the meanwhile, there was a settlement between the petitioner and the respondent Bank for an amount of Rs.185 lakhs, out of which the petitioner paid Rs.164 lakhs. Since the entire amount was not paid, the Bank cancelled the compromised settlement and issued Ext.P4 notice. The petitioner requests for enlargement of time for payment of balance amount of Rs.21 lakhs. The petitioner also moved I.A.No.1303/2024 in SA No.615/2022 for a direction for enlargement of time. In the meanwhile, an Advocate Commissioner issued a notice on 16.08.2024 informing that the physical possession of the secured assets will be taken on 31.08.2024. Thereafter, the petitioner filed advanced petition with an amended application for advancing the case for passing orders on the enlargement of time petition as well as the stay petition. The petitioner submitted that there was no sitting in the Tribunal on 28.08.2024 and 29.08.2024 and therefore, he could not move the Tribunal for getting appropriate orders. In such circumstances, he approached this Court.

2. The learned Standing counsel for the Bank submits that since the petitioner has not complied with the compromised agreement, they cancelled the compromised agreement and since the petitioner has already moved the DRT with a petition for enlargement of time, this Court shall not extend the same under Article 226 of the Constitution of India.

Having heard the counsel for the petitioner as well as the Standing Counsel for the respondent bank and taking note of the fact that Exts.P9, P10 and P11 petitions are pending before the DRT in SA No.615/2022, I direct the DRT to take up Exts.P9, P10 and P11 and pass appropriate orders within a period of two weeks from the date of receipt of a certified copy of this judgment. Till such time, all coercive proceedings against the petitioner shall be deferred.