

(2023) 08 KL CK 0069
In the High Court Of Kerala
Case No : Writ Petition (C) No. 25736 Of 2023

Chacko P.R

APPELLANT

Vs

Manager Kerala State Co Operative Bank Ltd

RESPONDENT

Date of Decision : 07-08-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 08 KL CK 0069

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

Bench : Single Bench

Advocate : Amrutha P S, P.C.Sasidharan

Final Decision : Disposed Of

Judgement

C. S. Dias, J

1. The writ petition is filed to direct the respondents to permit the petitioners to pay the overdue amount in equated monthly instalments and regularise the loan account.

2. The petitioners had availed financial assistance from the first respondent – Bank – by creating an equitable mortgage. Due to unforeseen circumstances, the petitioners could not pay the instalments on time. The respondents have initiated proceedings against the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, 'Act'). The petitioners are ready to pay the overdue amount in equated monthly instalments. Hence, the writ petition.

3. Heard; Smt.Amrutha P.S., the learned counsel appearing for the petitioners and Sri.P.C.Sasidharan, the learned counsel appearing for the respondents.

4. Sri.P.C.Sasidharan, on instructions, submitted that, as on 07.08.2023, the overdue amount is Rs.40,91,848/-. The tenure of the loan is till 2025. The respondents are willing to permit the petitioners to pay off the overdue amount

in twelve equated monthly instalments. The said submission is recorded.

5. The learned counsel appearing for the petitioners submitted that the petitioners are ready to accept the above offer.

6. Having considered the pleadings and materials on record, the submissions made by the learned counsel appearing for the parties, the consensus arrived at between the parties and to provide the petitioners one last opportunity to clear off the liability, I am inclined to exercise the powers of this Court under Article 226 of the Constitution of India and entertain the writ petition.

Resultantly, I dispose of the writ petition in the following manner:

(i) The respondents are directed to defer further coercive proceedings pursuant to Ext.P1 to enable the petitioners to pay the overdue amount in equated monthly instalments as stated below.

(ii) The petitioners are permitted to pay the overdue amount as stated above with future interest and cost to the first respondent – Bank – in twelve equated monthly instalments commencing from 07.09.2023 along with regular EMIs.

(iii) Needless to mention, if the petitioners commit default in the condition ordered above, the petitioners would 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.