(2023) 07 KL CK 0163

In the High Court Of Kerala

Case No : Writ Petition (C) No. 23066 Of 2023

C.K.Sunilkumar APPELLANT

Vs

Branch Manager, Axis Bank Kuthuparamba Branch RESPONDENT

Date of Decision : 24-07-2023

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2023) 07 KL CK 0163

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

Bench : Single Bench

Advocate : N.D.Arun Das, Victor Antony Noone, M.C.Chithrakala, Pradeesh Chacko

Final Decision : Disposed of

Judgement

C.S.Dias, J.

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

2. The petitioner had availed financial assistance from the first respondent – Bank – by creating an equitable mortgage. Due to unforeseen circumstances, the petitioner 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 petitioner is ready to pay the overdue amount in equated monthly instalments. Hence, the writ petition.

3. Heard; Sri.N.D.Arun Das, the learned counsel appearing for the petitioner and Sri.Pradeesh Chacko, the learned counsel appearing for the respondents.

4. Sri.Pradeesh Chacko, on instructions, submitted that, as on today, the overdue amount is Rs.89,900/-. The respondents are willing to permit the petitioner to pay off the overdue amount in four equated monthly instalments. The said

submission is recorded.

5. The learned counsel appearing for the petitioner submitted that the petitioner is 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 petitioner 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 Exts.P1 and P2 to enable the petitioner to pay the overdue amount in equated monthly instalments as stated below.

(ii) The petitioner is permitted to pay the overdue amount as stated above with future interest and cost to the first respondent – Bank – in four equated monthly instalments commencing from 24.08.2023 along with regular EMIs.

(iii) Needless to mention, if the petitioner commits default in the condition ordered above, the petitioner 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.