(2023) 05 KL CK 0238

In the High Court Of Kerala

Case No : Writ Petition (C) No. 17028 Of 2023

Cleatus K.V — APPELLANT

Vs

Kerala State Co Operative Bank Ltd — RESPONDENT

Date of Decision : 29-05-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 05 KL CK 0238

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : S.Mumtaz, Alisha Aslam, Amina Ruby Faizal, N Raghuraj

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 overdue amount in equated monthly instalments.

2. The petitioners' case is that he had availed a loan from the respondent by creating an equitable mortgage. Due to reasons beyond his control, he could not repay the EMIs on time. The respondent has proceeded 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 overdue amount in equated monthly instalments. Hence, the writ petition.

3. Heard; Smt.Mumtaz Shumsuddin, the learned counsel appearing for the petitioner and Sri.N.Raghuraj, the learned counsel appearing for the respondent.

4. The learned counsel appearing for the respondent, on instructions, submitted that the respondent is prepared to accept the overdue amount in eight equated monthly instalments. The said submission is recorded.

5. The learned counsel appearing for the petitioner submitted that the petitioner is prepared to accept the offer of the respondent.

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 overdue 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 all further coercive proceedings pursuant to Ext P1, to enable the petitioner to pay off the overdue amount in instalments.

(ii) The petitioner shall pay off the overdue amount to the respondent - Bank - with interest and cost along with regular EMIs in eight equated monthly instalments commencing from 1.7.2023

(iii) Needless to mention, if the petitioner fail to pay the amount as ordered above, he will 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.