
(2022) 03 KL CK 0197
In the High Court Of Kerala
Case No : Writ Petition (C) No. 9997 Of 2022

Devapal G

APPELLANT

Vs

Kerala State Co Operative Bank Ltd

RESPONDENT

Date of Decision : 24-03-2022

Acts Referred:

Citation : (2022) 03 KL CK 0197

Hon'ble Judges : Sathish Ninan, J

Bench : Single Bench

Advocate : Innocent Francis Papali, Mini K., Aswathi C., Bimal.K.Nath

Final Decision : Disposed Of

Judgement

Sathish Ninan, J

1. The loan availed by the petitioner from the 1st respondent Bank was defaulted. Thereupon, the Bank initiated arbitration proceedings as ARC No.375 of 2013. In execution of the Award, property of the petitioner is proclaimed for sale on 25.03.2022 at 11 a.m. Ext P4 is the sale notice. The petitioner by way of the Writ Petition has urged two fold reliefs; firstly, for consideration of his representation (Ext P3) for One Time Settlement and secondly, to afford him sufficient time to challenge the Arbitration Award before the Co-operative Tribunal.
2. Heard the learned counsel for the petitioner and the learned standing counsel for the Bank.
3. The prayer sought for by the petitioner is stiffly opposed by the learned standing counsel for the Bank.
4. The Arbitration proceeding was of the year 2013. Award was passed in the year 2013 itself. The Execution Petition is of the year 2014. Earlier on various occasions attempts were made to recover the debt by sale of the property but at the instance of the petitioner, on its assurance to have the liability liquidated, the

same was postponed. The present request is only a ruse to again stall the sale proceedings, submits the learned standing counsel for the Bank.

5. The fact that the property was sought to be sold in execution proceedings on various occasions earlier, is not disputed. The Award is of the year 2013 and the Execution Petition is of the year 2014. Regarding the request for grant of time to challenge the Award before the Tribunal, on the facts as noticed above, the same does not deserve consideration by this Court. Regarding the relief claimed for consideration of One Time Settlement, the One Time Settlement Scheme presently in force is up to 31.03.2022. The beneficiary under the Scheme is liable to pay the One Time Settlement amount on or before 31.03.2022. The total amount due as indicated in Ext P4 sale notice is Rs.37,49,825/.

Considering the entire facts as above, I dispose of the Writ Petition with the following directions:

- 1) The sale scheduled on 25.03.2022 at 11 a.m will postponed to 01.04.2022 on condition that the petitioner pays an amount of Rs.2 lakhs towards the debt before the time fixed for sale.
- 2) If the petitioner makes the payment as indicated in clause (1) above, then it shall be open for him to make an application to the Bank seeking the benefit of the Navakeraleeyam One Time Settlement Scheme. On receipt of such request, the Bank shall consider the same and pass appropriate orders.
- 3) If the petitioner fails to avail the benefit of the One Time Settlement Scheme and have the account closed, then, the Bank will be entitled to proceed with sale of the property on the basis of the present proclamation.
- 4) The Bank shall cause publication regarding the adjourned date of sale as indicated in Clause (1) above, on the notice board of the Bank.