
(2023) 06 KL CK 0355

In the High Court Of Kerala

Case No : Writ Petition (C) No. 20556 Of 2023

Ignatious Loyola

APPELLANT

Vs

Branch Manager Union Bank Of India

RESPONDENT

Date of Decision : 23-06-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 06 KL CK 0355

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : V.I.Rahul, Shifa Latheef, Devika G.Rajesh, Asp.Kurup

Final Decision : Dismissed

Judgement

C.S Dias, J

1. The writ petition is filed, inter alia, to direct the respondents to grant the petitioner some more time to settle the outstanding amount under the One Time Settlement (OTS) scheme.
2. The petitioner's case is that, he had availed financial assistance from the first respondent – Bank – to purchase a fishing boat. Unfortunately, the fishing boat capsized and the petitioner was unable to pay the instalments on time. The Bank has now proceeded against the secured asset of the petitioner under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI Act'). The Bank is threatening to sell the property. The petitioner is prepared to pay off the outstanding amount under the OTS scheme. Hence, the writ petition.
3. Heard; Sri.V I.Rahul, the learned counsel appearing for the petitioner and Sri. ASP Kurup, the learned counsel appearing for the respondents.
4. Sri. ASP Kurup, on instructions, submitted that the Bank has already proceeded under the SARFAESI Act and the matter stands posted for sale on

27.06.2023. At this stage, the Bank is not willing to offer the OTS scheme to the petitioner. The petitioner may be relegated to exhaust the statutory remedies. Hence, the writ petition may be dismissed.

5. The Hon'ble Supreme Court in *South Indian Bank Ltd vs. Naveen Mathew Philip* (2023 LiveLaw (SC) 320), after advertng to a myriad of earlier judicial pronouncements rendered under the SARFAESI Act, has categorically declared that High Courts shall not, unless in extraordinary circumstances, interfere with proceedings initiated under the SARFAESI Act, in writ proceedings filed under Article 226 of the Constitution of India.

6. Having considered the pleadings and materials on record, and after hearing the submissions on either side, I do not find any extra-ordinary circumstances made out in the writ petition to exercise the discretionary powers of this Court under Article 226 of the Constitution of India to entertain the writ petition. Nonetheless, it would be up to the petitioner to work out his statutory remedies as provided under the SARFAESI Act.

Resultantly, the writ petition is dismissed, without prejudice to the right of the petitioner to work out his remedies, in accordance with law.