

(2023) 07 KL CK 0228
In the High Court Of Kerala
Case No : Writ Petition (C) No. 20857 Of 2023

Jayan B

APPELLANT

Vs

Kaduthuruthy Urban Co-Operative Bank Ltd

RESPONDENT

Date of Decision : 27-07-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 07 KL CK 0228

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : Rayjith Mark, Anish Lukose, Varghese C.Kuriakose

Final Decision : Disposed Of

Judgement

C.S Dias, J

1. The writ petition is filed, inter alia, to direct the respondents to permit the petitioners to pay the outstanding amount in equated monthly instalments and close the loan account.

2. The petitioners' case is that, they had availed financial assistance from the 1st respondent – Bank - by creating an equitable mortgage by deposit of title deeds. Due to the Covid-19 pandemic, they could not pay the instalments on time. The first respondent has classified the loan account as NPA. The respondents are now threatening to take physical possession of the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, 'Act'). The petitioners are willing to pay the outstanding amount in equated monthly instalments and close the loan account. Hence, the writ petition.

3. The respondents have filed a counter affidavit, inter alia, contending that the loan account was classified as NPA as early as on 17.10.2015. The tenure of the loan is over. The outstanding amount as on 15.7.2023 is Rs.6,37,966/-. Nonetheless, the respondents are willing to permit the petitioners to pay off the

outstanding amount in equated monthly instalments. Hence, the writ petition may be disposed of accordingly.

4. Heard; Sri.Rayjith Mark, the learned counsel appearing for the petitioners and Sri.Varghese C.Kuriakose, the learned counsel appearing for the respondents.

5. 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 outstanding amount, 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 notices to enable the petitioners to pay the outstanding amount in equated monthly instalments.

(ii) The petitioners are permitted to pay the outstanding amount of Rs.6,37,966/- with future interest and cost to the first respondent – Bank – in twelve equated monthly instalments commencing from 27.08.2023.

(iii) Needless to mention, if the petitioners commit default of 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.