
(2023) 06 KL CK 0348
In the High Court Of Kerala
Case No : Writ Petition (C) No. 20410 Of 2023

Johnson P

APPELLANT

Vs

Authorized Officer Union Bank Of India

RESPONDENT

Date of Decision : 22-06-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 06 KL CK 0348

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

Bench : Single Bench

Advocate : Biju .C. Abraham, Thomas C.Abraham, A S P Kurup

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 off the overdue amount in instalments.
2. The petitioner had availed a housing loan from the 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.Biju C.Abraham, 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 as on 22.06.2023 the overdue amount is Rs.5,33,441/-. The tenure of the loan is till 2038. The respondents are willing to permit the petitioner to pay off the overdue amount in ten equated monthly instalments. The said submission is recorded.

5. The learned counsel appearing for the petitioner submitted that as the tenure of the loan is till 2038, the petitioner may be granted atleast twelve installments to pay the overdue amount.

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 Ext. P1 to enable the petitioner to pay the liability 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 2nd respondent – Bank – in 12 equated monthly instalments commencing from 22.07.2023 along with regular EMIs.

(iii) Needless to mention, if the petitioner commits default in any of the conditions 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 extension of time shall be entertained.