(2023) 05 KL CK 0158

In the High Court Of Kerala

Case No : Writ Petition (C) No. 16040 Of 2023

Johny T.K.Vs State Bank Of India

Date of Decision : 23-05-2023

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2023) 05 KL CK 0158

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : Shibin K.F., Seby Joseph

Final Decision : Disposed Of

Judgement

C.S Dias, J

1. The writ petition is filed to direct the respondents to regularise the loan accounts of the petitioner and permit him to pay the outstanding amounts in equated monthly installments along with regular EMIs of the three loan accounts.

2. The petitioner's case is that he had availed a housing loan from the 1st respondent bank by creating an equitable mortgage. Later he had also availed a top up loan. Due to reasons beyond his control, the petitioner defaulted in repaying of the EMIs. The 1st respondent has proceeded against the petitioner's property 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 entire outstanding amount in equated monthly installments. Hence, the writ petition.

3. Heard; Sri.Shibin K.F., the learned counsel appearing for the petitioner and Sri.Jayesh Mohankumar, the learned Standing Counsel appearing for the respondents.

4. The learned Standing Counsel appearing for the 1st respondent, on instructions, submitted that, as on today there is an outstanding amount of Rs.4,98,390/- as against the loans availed by the petitioner. Similarly the

petitioner had availed a top-up loan. He has also been extended with 'Suraksha Coverage' of the loan amount. The petitioner has to pay an amount of Rs.22,530/- as the monthly EMI. The 1st respondent bank is amenable for the petitioner to pay off the outstanding amount in six equated monthly installments along with the regular EMI. The above submission is recorded. The learned counsel appearing for the petitioner has accepted the above conditions of the 1st respondent.

5. Having considered the pleadings and materials on record and in the light of the submission made by the learned counsel appearing for parties, to provide the petitioner one last opportunity to pay off the loan amount, I am inclined to exercise the extra ordinary 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 respondents are directed to defer further coercive proceedings pursuant to Ext. P6 possession notice, to enable the petitioner to discharge the loan amounts.

(ii) The respondents shall accept the amounts from the petitioner as ordered herein below.

(iii) The petitioner shall deposit with the respondents the total outstanding amount of Rs.4,98,390/- in six monthly installments along with interest and charges commencing from 15.6.2023; along with the regular EMIs in respect of the three loan accounts.

(v) Needless to mention, if the petitioner commits default in respect of any of the conditions ordered above, he will lose the benefit of this judgment and the respondents would be at liberty to proceed with recovery proceedings from the stage it presently stands.

(vi) It is made clear that, no further application for modification/extension of time shall be entertained.