

(2023) 08 KL CK 0082

In the High Court Of Kerala

Case No : Writ Petition (C) No. 26247 Of 2023

Kunhi Mohammed Cholakkal

APPELLANT

Vs

Nilambur Co Operative Urban Bank Ltd

RESPONDENT

Date of Decision : 09-08-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 08 KL CK 0082

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

Bench : Single Bench

Advocate : G.Hariharan, Praveen.H., K.S.Smitha, V.R.Sanjeev Kumar, Bijoy Sam George, T Ramesh Babu

Final Decision : Disposed Of

Judgement

C. S. Dias, J

1. The writ petition is filed to direct the first respondent to permit the petitioner to pay off the overdue amount in equated monthly instalments and regularise the loan account.

2. The petitioners case is that, he had availed a cash credit facility from the first respondent – Bank – by creating an equitable mortgage by deposit of title deeds. Due to the Covid-19 pandemic and the unprecedented flood that happened in the State, he could not pay the EMIs on time. Now, the first respondent has initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and the second respondent has issued Ext P2 notice, threatening to take possession of the secured asset. The petitioner is willing to pay off the overdue amount in equated monthly instalments. Hence, the writ petition.

3. Heard; Sri. G.Hariharan, the learned counsel appearing for the petitioner and Sri. T Ramesh Babu, the learned counsel appearing for the respondents. Notice to the second respondent is dispensed with.

4. Sri. Sri. T Ramesh Babu, on instructions, submitted that, as on today, the overdue amount is Rs.31,73,374/-. The first respondent is willing to permit the petitioner to pay off the overdue amount in instalments. The said submission is recorded.

5. The learned counsel for the petitioner submitted that the petitioner may be granted at least 15 equated monthly instalments to pay off the overdue amount with EMIs.

6. 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, I am inclined to exercise the 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 proceedings pursuant to Exts P1 & P2, to enable the petitioner to pay off the overdue amount in instalments.
- (ii) The petitioner is permitted to pay the overdue amount with future interest and cost to the first respondent – Bank in 12 equated monthly instalments commencing from 09.09.2023 along with regular EMIs.
- (iii) 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.
- (iv) It is made clear that, no further application for modification/extension of time shall be entertained.