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(2021) 03 KL CK 0389

In the High Court Of Kerala

Case No : Writ Petition (C) No. 6850 Of 2021

Lavanya APPELLANT

Vs

Kerala State Co-Operative Bank Ltd And Ors RESPONDENT

Date of Decision : 30-03-2021

Acts Referred:

Securitisation And Reconstruction Of Financial Assets And Enforcement Of Securities Interest Act, 2002 — Section 13(2), 13(4)

Citation : (2021) 03 KL CK 0389

Hon'ble Judges : A.M. Badar, J

Bench : Single Bench

Advocate : N.L. Bitto, P.C. Sasidharan

Final Decision : Disposed Of

Judgement

1. Heard both sides.

2. Petitioner had availed a loan of Rs.9,00,000/- (Rupees nine lakhs only) in the year 2016 and the term of the loan is upto 2028. That loan has turned into Non Performing Asset and the respondents have resorted to the proceedings under the SARFAESI Act and accordingly notice under Section 13(2) of the SARFAESI Act was issued on 18.01.2020. Notice under Section 13(4) of the SARFAESI Act was issued on 05.02.2021 and it was published on 11.02.2021. The recalled amount is more than Rs.9.61 lakhs whereas the overdue amount is about Rs.2,45,623/- (Rupees two lakhs forty five thousand six hundred and twenty three only). Learned counsel appearing for the petitioner further submits that because of financial stringency, the petitioner could not repay the loan in time and she wants to pay the same by ten instalments.

3. Learned standing Counsel appearing for the respondent bank submits that the petitioner should deposit an amount of Rs.25,000/- (Rupees twenty five thousand only) in this month and balance overdue amount can be paid in eight equated monthly instalments.

4. Having considered the facts and circumstances of the instant case and keeping in mind the willingness on the part of the respondents to grant facility of instalments to the petitioner for repayment of the overdue amount, the writ petition is disposed of with the following directions:-

The petitioner is directed to deposit an amount of Rs.25,000/-(Rupees twenty five thousand only) towards the overdue amount on or before 31.03.2021 and she should repay the entire overdue amount with interest and incidental charges in ten equated successive monthly instalments commencing from 26.04.2021. In addition, the petitioner should also pay the EMIs regularly. If the petitioner complies with these directions, respondents shall keep the coercive action, initiated against the petitioner under the SARFAESI Act, in abeyance. In case of a single default, the respondents are at liberty to continue the action under the SARFAESI Act initiated against the petitioner. No further extension of time for compliance of this direction shall be granted to the petitioner.

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