**(2024) 04 KL CK 0068**

**In the High Court Of Kerala**

**Case No :** Writ Petition (C) No. 5532 Of 2024

Manju M — APPELLANT

Vs

M/s Indusind Bank Ltd — RESPONDENT

**Date of Decision :** 05-04-2024

**Acts Referred:**

**Citation :** (2024) 04 KL CK 0068

**Hon'ble Judges :** N. Nagaresh, J

**Bench :** Single Bench

**Advocate :** Ajit G Anjarlekar, G.P.Shinod, Govind Padmanaabhan, Gayathri S.B., Atul Mathews, Varghese C.Kuriakose

**Final Decision :** Disposed Of

# Judgement

N. Nagaresh, J

1. The petitioner has approached this Court aggrieved by the coercive proceedings for recovery of financial advance made by the IndusInd Bank to the petitioner, invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The Bank paid ☐ 23 lakhs to the petitioner as Vehicle Loan in the year 2018. The petitioner states that though the petitioner made remittances promptly during the initial repayment period of the financial advance, she could not pay the repayment instalments promptly later. The repayment of loan fell into arrears later. It happened due to reasons beyond the control of the petitioner.

3. Though the petitioner requested the Bank to permit the petitioner to repay the overdue amounts in easy monthly instalments, the Bank authorities were not yielding. The authorities, instead, started coercive proceedings, invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Security Interest (Enforcement) Rules, 2002 and issued notice.

4. The petitioner states that she is still in a position to clear the overdue amounts towards the loan, if sufficient time is given to clear the dues in easy monthly instalments. If the respondents are permitted to continue with the coercive proceedings and auction the secured assets provided by the petitioner, she will be put to untold hardship and loss.

5. Standing Counsel entered appearance on behalf of the Bank and denied all the statements made by the petitioner. On behalf of the respondents, it is submitted that the loan was given to the petitioner in the year 2018. The petitioner committed default in repaying the loan.

6. The Bank repeatedly reminded the petitioner and required her to clear the dues. The petitioner deliberately omitted to do so. The petitioner's loan account was declared as NPA in the year 2021. In the circumstances, the Bank had no other go, than to proceed against the petitioner invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The impugned notice was issued in these circumstances. The petitioner has not advanced any legal reasons to thwart the coercive proceedings initiated by the Bank. The possession of the vehicle was taken over by the respondents on 09.02.2024.

7. The Standing Counsel, however, submitted that if the petitioner is ready and willing to make a substantial payment soon and remit the balance overdue amount immediately thereafter, a short breathing time can be granted to the petitioner to clear the dues. The Standing Counsel submitted that the outstanding amount due to the Bank from the petitioner as on 05.04.2024 is ☐ 21,48,626/- and the overdue amount as on 05.04.2024 is ☐ 2,86,536/-.

8. I have heard the counsel for the petitioner and the Standing Counsel representing the Bank.

9. The specific case of the petitioner is that the petitioner has been making the repayment and maintaining the loan account initially. The default in repayment of the account occurred lately due to reasons beyond the control of the petitioner. The petitioner has provided substantial security which will safeguard the interest of the Bank.

10. In the facts and circumstances of the case, I am inclined to dispose of the writ petition giving a short and reasonable time to the petitioner to clear off the liability.

11. The writ petition is therefore disposed of with the following directions:

(i) The petitioner shall remit the overdue amount of ☐ 2,86,536/- in eight consecutive and equal monthly installments along with accruing interest and other Bank charges, if any. First of such installments shall be paid on or before 08.04.2024.

(ii) If the petitioner pays first instalment as directed above, the vehicle shall be released to the petitioner.

(iii) If the petitioner commits default in making payments as directed above, the petitioner shall surrender the vehicle.

(iv) The petitioner shall also pay current EMIs along with the aforesaid payments.

(v) If the petitioner pays the amount as directed above, any coercive proceedings against the petitioner will stand deferred.