

(2017) 03 KL CK 0080
In the High Court Of Kerala
Case No : 7474 of 2017 (H)

MANOJ MADHAV

APPELLANT

Vs

AUTHORIZED OFFICER

RESPONDENT

Date of Decision : 06-03-2017

Acts Referred:

Citation : (2017) 03 KL CK 0080

Hon'ble Judges : K.Vinod Chandran

Bench : SINGLE BENCH

Advocate : JUDIT SEBASTIAN, G.RANJU MOHAN, M.SANTHI, GEORGE POONTHOTTAM

Final Decision : Disposed

Judgement

1. The petitioner is aggrieved with the recovery proceedings taken against the petitioner's property. Admittedly, a mortgage was created and a loan was availed.

2. The learned Standing Counsel for the respondent Bank submits that the period of loan has expired on 20.01.2017. The loan was availed in the year 2013 and consistently default was committed in the loan account. At an earlier occasion, when the Bank had proceeded against the property, the petitioner had approached this Court with a writ petition, in which Ext.P2 judgment was passed. The defaulted arrears

were allowed to be remitted in four equal and successive monthly instalments along with the regular EMI. The petitioner did not comply with the order and paid only half the defaulted arrears. The Bank also submits that the property is intended to be taken over tomorrow, i.e, on 07.03.2017.

3. Only on the undertaking of the petitioner that Rs.3 lakhs will be paid by tomorrow; if the same is paid by 11 a.m. tomorrow, the possession proceedings shall be kept in abeyance. The petitioner also undertakes to pay the balance amounts in instalments.

4. Considering the impecunious circumstance of the petitioner, this writ petition is disposed of on the following terms.

(i) The total arrears is said to be Rs.23,69,990/-.

(ii) The petitioner shall pay Rs.3 lakhs before 11.00 a.m. on 07.03.2017.

(iii) The respondent shall grant twelve monthly instalments for the payment of the balance arrears of Rs.20,69,990/-, starting from 07.04.2017, and continued on the 7th of successive months.

(iv) Recovery proceedings shall be kept in abeyance on condition that the remittances as per this order are made without any default.

(v) On the petitioner making one default in repaying the instalments, the recovery steps initiated shall revive and continue and the petitioner would surrender the property without demur.

(vi) The respondent shall issue a statement of the future interest accrued, if any, on the arrears every

three months and the same shall be paid along with the next month's instalment, as granted by this Court, and after satisfaction of the arrears, as the 13th instalment.

(vii) On the petitioner satisfying the entire arrears, the recovery proceedings shall be unenforceable.

The Writ Petition is disposed of as above, making it clear that the respondent will be free to proceed with the recovery if the above conditions are not complied with.