(2023) 08 KL CK 0181

In the High Court Of Kerala

Case No : Writ Petition (C) No. 9743 Of 2022

Mathewkutty APPELLANT

Vs

Urban Co Operative Bank Limited No. 1758 RESPONDENT

Date of Decision : 18-08-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 08 KL CK 0181

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

Bench : Single Bench

Advocate : Thomas T.Varghese, Philip T.Varghese, Achu Subha Abraham, V.T.Litha, K.R.Monisha, Shruthi Sara Jacob, Arjun Raja P.C., Sreenath Vijayaraghavan, Alex Thomas, U.K.Devidas

Final Decision : Disposed Of

Judgement

C.S Dias, J

1. The writ petition is filed to direct the respondents to permit the petitioners to pay off the outstanding amount in equated monthly instalments and close the loan account.

2. The petitioners’ case is that they had availed financial assistance from the first respondent – Bank – by creating an equitable mortgage by deposit of title deeds. Due to reasons beyond their control, they could not pay the instalments on time. Now, the respondents have initiated proceedings against the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, ‘Act’) and are threatening to take physical possession of the secured asset. The petitioners are willing to pay the outstanding amount in equated monthly instalments. Hence, the writ petition.

3. Heard; Sri.Thomas T.Varghese, the learned counsel appearing for the petitioners and Sri.U.K Devidas, the learned counsel appearing for the respondents.

4. Sri.U.K Devidas, on instructions, submitted that the outstanding amount as on today is Rs.39,44,739/-. The respondents are willing to permit the petitioner to pay off the outstanding amount in four equated monthly instalments. The said submission is recorded.

5. The learned counsel appearing for the petitioners submitted that the petitioners may be granted at least twelve equated monthly instalments to pay the outstanding amount.

6. Having considered the pleadings and materials on record, the submissions made by the learned counsel appearing for the parties, the consensus arrived at between the parties and to provide the petitioners one last opportunity to clear off the liability, I am inclined to exercise the powers of this Court under Article 226 of the Constitution of India and entertain 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 Ext P1 and P2, to enable the petitioners to pay the liability in equated monthly instalments as stated below.

(ii) The petitioners are permitted to pay the outstanding amount as stated above with future interest and cost to the first respondent – Bank – in twelve equated monthly instalments commencing from 18.9.2023.

(iii) Needless to mention, if the petitioners commit default in any of the conditions ordered above, the petitioners would lose the benefit of this judgment and the respondents would be at liberty to proceed with recovery proceedings from the stage it presently stands.

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