(2012) 07 KL CK 0184

In the High Court Of Kerala

Case No : WP (C) . No. 17144 of 2012 (P)

Megha John APPELLANT

Vs

The Kollam District Co-Operative Bank Ltd. RESPONDENT

Date of Decision : 23-07-2012

Acts Referred:

Citation : (2012) 07 KL CK 0184

Hon'ble Judges : P.R. Ramachandra Menon, J

Bench : Single Bench

Advocate : Johnson Gomez Sri. S. Biju Kizhakkanela, for the Appellant; T.R. Hari Kumar, SC, Kollam District Co-Operative Bank Ltd., for the Respondent

Judgement

Mr. Justice P.R. Ramachandra Menon

1. Petitioner is the daughter of the borrower, who availed a loan from the respondent Bank creating security interest over the property in question. Since there was some default, the Bank proceeded with steps under the SARFAESI Act.

The petitioner preferred Ext.P5 representation before the Bank pointing out the sequence of events including the tragic demise of the father of the petitioner and also expressing willingness to satisfy the liability by way of OTS. To prove the bonafides of the petitioner, it is stated that, the petitioner is ready to deposit a sum of Rs. 4.6 lakhs within ten days and a prayer is there to have it adjusted against the principal amount and to grant some reasonable time to pay off the balance, as sought for vide Ext.P5.

Learned standing counsel for the respondents submits, on instructions, that the request for granting the benefit of OTS can be considered only in terms of the scheme, particularly, the scheme notified as ''ASHWAS 2012''. The amount proposed to be deposited by the petitioner could be kept in a ''no lien account'' and a decision can be taken, if a proper petition is filed by the borrower before the General Manager of the Bank, who is the competent authority in this regard. The Learned Counsel for the petitioner submits that, the petitioner is ready to cause an application to be filed in this regard by the mother (proper party) forthwith and agrees to effect a deposit of Rs. 4.6 lakhs in a ''no lien account'' as mentioned above.

In the above circumstances, this writ petition is disposed of recording the submissions as above and if an application is filed seeking for the benefit of the scheme as aforesaid forthwith, it shall be duly considered by the competent authority and appropriate orders shall be passed extending the benefit to the permissible extent to the beneficiaries and the liability to satisfy the amount due under the loan transaction will depend upon the outcome of the order to be passed by the authority as above. All further coercive proceedings shall be kept in abeyance till a decision is taken by the competent authority.

