(2023) 05 KL CK 0146

In the High Court Of Kerala

Case No : Writ Petition (C) No.14391 Of 2023

Moosa P.K.Vs Malappuram District Co Operative Bank

Date of Decision : 22-05-2023

Acts Referred:

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 — Section 13(2)

Citation : (2023) 05 KL CK 0146

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : Luke J Chirayil, Elsa Mary Thomas, Amal Jose, Jasni Jalal, Gilbert George Correya

Final Decision : Disposed Of

Judgement

C.S Dias, J

1. The writ petition is filed to direct the first respondent – Bank - to regularise the loan account and permit the petitioner to remit the overdue amount in equated monthly instalments.

2. The petitioner's case is that he had availed a loan of Rs.25,00,000/- from the first respondent for his business purposes by creating an equitable mortgage. Unfortunately, due to the 2018 floods in the State and, thereafter, the pandemic, the petitioner was unable to fulfil his contractual obligations. The second respondent has now issued notice under Sec.13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, 'Act'), against the petitioner. The petitioner had approached this Court and was by Ext P4 judgment permitted to pay off the loan amount in eleven equated monthly instalments commencing from 17.1.2022. Yet, the petitioner was precluded from complying with the directions of this Court. Now, the Bank has revived the proceedings under the Act. Hence, the present writ petition.

3. Heard; Sri.Luke J Chirayil, the learned counsel appearing for the petitioner and Sri.Gilbert George Correya, the learned Standing Counsel appearing for the

respondents.

4. The learned Standing Counsel appearing for the respondents submitted that, notwithstanding the petitioner’s failure to comply with the directions in Ext P4 judgment, the Bank is willing to grant the petitioner one more opportunity to pay off the loan amount, provided the petitioner shows his bonafides by depositing a substantial amount of at least Rs.5,00,000/- within a period of two weeks and then pay off the outstanding amount in six equated monthly instalments commencing from 1.7.2023. The above submission is recorded. The learned counsel for the petitioner has accepted the above conditions of the respondents.

5. Having considered the pleadings and materials on record, and in the light of the submission made by the learned counsel appearing for parties, to provide the petitioner one last opportunity, I am inclined to exercise the powers of this Court under Article 226 of the Constitution of India and dispose of the writ petition.

Resultantly, I dispose of the writ petition in the following manner:

(i) The respondents are directed to defer further coercive proceedings pursuant to Exts P1 to P3 notices, to enable that the petitioner to discharge the loan amount.

(ii) The respondents shall accept the amounts from the petitioner as ordered herein below.

(iii) The petitioner shall deposit with the respondents an amount of Rs.5,00,000/- on or before 15.6.2023.

(iv) The petitioner shall discharge the balance loan amount in ten equated monthly instalments commencing from 15.7.2023.

(v) Needless to mention, if the petitioner commits default in respect of any of the conditions ordered above, he will lose the benefit of this judgment and the respondents would be at liberty to proceed with recovery proceedings from the stage it presently stands.

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