(2021) 06 KL CK 0009

In the High Court Of Kerala

Case No : Writ Petition No. 11620 Of 2021

M.S.Jayachandran APPELLANT

Vs

Catholic Syrian Bank RESPONDENT

Date of Decision : 01-06-2021

Acts Referred:

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

Citation : (2021) 06 KL CK 0009

Hon'ble Judges : N. Nagaresh, J

Bench : Single Bench

Advocate : K.R.Vinod, M.S.Letha, K.S.Sreerekha, K.V.Arun Kumar, T.S.Jibu, C.A. Joy

Final Decision : Disposed Of

Judgement

N. Nagaresh, J

The petitioners have filed this writ petition seeking to direct the respondents to permit the petitioners to pay the amount of interest in arrears payable

by them on the cash credit facility, amounting to Rs.12,02,810/- by 20 monthly instalments and to regularise and restore the cash credit facility.

2. The 1stÂ petitioner availed cash credit facility of Rs.75,00,000/- from the 1st respondent-Bank. Petitioners 2 and 3 stood as guarantors to the

facility. According to the 1st petitioner, due to Covid-19 pandemic in the year 2020, the business had to be closed down and the 1st petitioner could not

make prompt payments.

3. According to the petitioners, the overdue interest is Rs.12,02,810/- and the 1st petitioner can pay the outstanding interest in 20 monthly instalments.

However, without giving the petitioners sufficient time to clear the overdues, the respondents have issued Ext.P2 notice threatening that coercive

proceedings will be taken under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act,

2002. Hence, the petitioners are before this Court.

4. The Standing Counsel representing respondents 1 and 2, on instructions, submitted that the writ petition is not maintainable. Huge amounts are in

arrears from the 1st petitioner towards cash credit facility extended to him and in spite of repeated reminders, the 1st petitioner has not paid the

outstanding arrears. In case this Court grants the petitioners time to repay in instalments, 20 monthly instalments cannot be granted to the petitioners

and only a short breathing time may be extended.

5. Heard the learned counsel for the petitioners and the learned Standing Counsel representing respondents 1 and 2.

6. TheÂ outstandingÂ interestÂ dueÂ fromÂ theÂ 1st petitioner would be around `13 lakhs. As the interest happened to accrue and fall due in the

cash credit facility due to the pandemic situation, this Court is of the considered opinion that a breathing time should be given to the petitioners to clear

the overdue interest in reasonable monthly instalments.

In the circumstances, the writ petition is disposed of permitting the petitioners to pay the accrued interest in eight equal monthly instalments. The

petitioners shall remit the first instalment on or before 01.07.2021. If the petitioners make two consecutive defaults in paying monthly instalments as

permitted above, the respondents will be at liberty to proceed against the petitioners in accordance with law.

