(2023) 05 KL CK 0155

In the High Court Of Kerala

Case No : Writ Petition (C) No.15765 Of 2023

Nasarudeen	APPELLANT
Vs	
Canara Bank	RESPONDENT

Date of Decision : 23-05-2023

Acts Referred:

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 — Section 13(2), 13(4)

Citation : (2023) 05 KL CK 0155

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : N.M.Madhu, C.S.Rajani, M Gopikrishnan Nambiar

Final Decision : Disposed Of

Judgement

C.S Dias, J

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

2. The petitioner’s case is that he had availed a loan in the year 2017 from the first respondent – Bank. However, due to the setback in his business, he was prevented from fulfilling his contractual obligations. The first respondent has initiated proceedings under Sec.13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, ‘Act’) and issued Ext P1 notice. The respondents have also issued Ext P2 under Sec.13(4) of the Act. The petitioner’s only request is to pay off the outstanding amount in reasonable equated monthly instalments. Hence, the writ petition.

3. Heard; Sri.N.M Madhu, the learned counsel appearing for the petitioner and Sri.Gopikrishnan Nambiar, the learned counsel appearing for the respondents.

4. Sri.Gopikrishnan Nambiar, on instructuions, submitted that, the petitioner availed a cash credit facility as early as on 23.6.2017. The assets were declared

non-perfomring assets on 26.1.2023. As on today, there is an outstanding amount of Rs.61,37,848/-. The first respondent is ready to accept the entire outstanding amount, provided the petitioner pays off the same in eight equated monthly instalments. The said submission is recorded.

5. The learned counsel appearing for the petitioner submitted that the petitioner is prepared to accept the offer of the respondents.

6. Having considered the pleadings and materials on record and the submission made by the learned counsel appearing for the parties, to provide the petitioner one last opportunity to pay off the loan amount, 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 and P2 notices to enable the petitioner to discharge the loan amount.

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

(iii) The petitioner shall deposit with the respondents the entire outstanding loan amount in eight equated monthly instalments commencing from 1.7.2023.

(iv) 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.

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