
(2023) 08 KL CK 0125
In the High Court Of Kerala
Case No : Writ Petition (C) No. 39969 Of 2022

Nishida N. N.

APPELLANT

Vs

Authorised Officer, Kerala Gramin Bank

RESPONDENT

Date of Decision : 14-08-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 08 KL CK 0125

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

Bench : Single Bench

Advocate : Arun Samuel, Jithin Babu A, Jawahar Jose

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 the outstanding amount in equated monthly instalments and close the loan account.

2. The petitioner's case is that, she and her husband had availed financial assistance from the second respondent – Bank – by creating an equitable mortgage by deposit of title deeds. Due to the Covid-19 pandemic and other adverse financial conditions, the petitioner and her husband could not pay the instalments on time. The respondents have initiated proceedings against the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and is threatening to take physical possession of the secured asset. The petitioner is willing to pay the outstanding amount in equated monthly instalments and close the loan account. Hence, the writ petition.

3. Heard; Sri. Arun Samuel, the learned counsel appearing for the petitioner and Sri. Jawahar Jose, the learned counsel appearing for the respondents.

4. Sri. Jawahar Jose, on instructions, submitted that the respondents had filed C.S.No.289/2021 before the Commercial Court, Thrissur. The suit was decreed in favour of the respondents, as early as on 22.01.2022. The outstanding amount as on today is Rs.10,25,113/-. In view of the decree, the respondents cannot regularise the loan account. Nonetheless, it would be up to the petitioner to pay the outstanding amount. The respondents are willing to permit the petitioner to pay off the outstanding amount in six equated monthly instalments. The said submission is recorded.

5. The learned counsel appearing for the petitioner submitted that the petitioner may be granted at least 12 equated monthly instalments to pay off 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 petitioner 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 coercive proceedings pursuant to Exts P2 & P5, to enable the petitioner to pay the outstanding amount in equated monthly instalments as stated below.

(ii) The petitioner is permitted to pay the outstanding amount as stated above with future interest and cost to the second respondent – Bank – in 10 equated monthly instalments commencing from 14.09.2023.

(iii) Needless to mention, if the petitioner commits default in any of the conditions ordered above, the petitioner 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.

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