(2012) 07 KL CK 0192

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 16719 of 2012 (L)

N.P. Vinod, Omanakutty Amma Nair and Biju Devassy APPELLANT

Vs

North Malabar Gramin Bank RESPONDENT

Date of Decision : 17-07-2012

Acts Referred:

Citation : (2012) 07 KL CK 0192

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

Bench : Single Bench

Advocate : P.P. Biju, for the Appellant; Devan Ramachandran, SC, for the Respondent

Judgement

Justice P.R. Ramachandra Menon

APPENDIX

PETITIONER(S) EXHIBITS :

EXHIBIT-P1-:

Copy of the relevant pages of the loan pass book issued by the respondent

EXHIBIT-P2-:

Copy of the notice dated 02/08/2011 issued by the respondent bank

EXHIBIT-P3-:

Copy of the notice dated 21/04/2012 issued by the advocate commissioner in c.m.p 115/2012

EXHIBIT-P4-:

Copy of the cash receipt dated 29/06/2012 issued by the respondent bank

RESPONDENTS'' EXHIBITS:

NIL

1. The petitioner availed a loan of cash credit facility of Rs. 8 Lakhs from the respondent Bank, on the strength of security interest created over the property. When the petitioner turned to be a defaulter, the Bank declared the account as ''NPA'' and proceeded with steps under the SARFAESI Act, which in turn is under challenge. The learned counsel for the petitioners submits that the default was never wilful, but because of some unforeseen adverse circumstances. It is stated that the petitioners do not intend to dispute the liability and that the only relief now pressed before this Court, is to permit them to clear the entire liability by way of ''eight'' equal monthly installments. Learned counsel for the petitioners also submits that, after issuing Ext.P3 notice by the Advocate Commissioner, demanding vacants are under on 21.04.2012, the petitioners, expressing the bonafides, have satisfied a sum of Rs. 1 Lakh on 29.06.2012, as borne by Ext.P4. Heard the learned standing counsel for the respondent Bank as well.

2. After considering limited nature of the relief pressed before this Court, it is found fit and proper to permit the petitioner to have an opportunity to clear the outstanding liability, giving some breathing time. Accordingly, the petitioners are permitted to clear the entire outstanding liability by way of ''eight'' equal monthly installments, the first of it shall be effected on or before the 10th of August 2012; to be followed by similar installments to be effected on or before the 10th of succeeding months. Subject to this, the recovery proceedings, if any, shall be kept in abeyance for the time being. It is also made clear that, if any default is committed in satisfying the liability as aforesaid, it will be open for the respondent Bank to proceed with further steps for realization of the entire amount in a lump, by pursuing such steps from the stage where it stands now.

The writ petition is disposed of accordingly.

