
(2023) 06 KL CK 0387

In the High Court Of Kerala

Case No : Writ Petition (C) No. 16440 Of 2023

Omanakuttan Nair

APPELLANT

Vs

State Bank Of India

RESPONDENT

Date of Decision : 27-06-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 06 KL CK 0387

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : Babu Paul, Jithesh Manon

Final Decision : Dismissed

Judgement

C.S.Dias, J

1. The writ petition is filed to direct the respondents to permit the petitioner to pay off the outstanding amount in equated monthly instalments and regularise the loan account.
2. The petitioner's case is that, he had availed a educational loan from the second respondent – Bank – by creating an equitable mortgage. Due to unforeseen circumstances, he could not pay the instalments on time. The respondents are now proceeded against the secured asset of the petitioner under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'Act'). The petitioner is prepared to pay off the outstanding amount in instalments. Hence, the writ petition.
3. Heard; Sri. Babu Paul, the learned counsel appearing for the petitioner and Sri.M.Jithesh Menon, the learned counsel appearing for the respondent.
4. Sri. M.Jithesh Menon, on instructions, submitted that the petitioner had availed three loans from the second respondent – Bank. The loan accounts were classified as Non-Performing Asset (NPA) in the year 2021. The respondents have

filed O.A.No.550/2022 before Debt Recovery Tribunal-1, Ernakulam. The respondents are not willing to permit the petitioner to pay off the outstanding amount in instalments. Hence, the writ petition may be dismissed.

5. The Hon'ble Supreme Court in South Indian Bank Ltd vs. Naveen Mathew Philip (2023 LiveLaw (SC) 320), after advertng to a myriad of earlier judicial pronouncements rendered under the Act, has categorically declared that High Courts shall not, unless in extraordinary circumstances, interfere with proceedings initiated under the Act, in writ proceedings filed under Article 226 of the Constitution of India.

6. Having considered the pleadings and materials on record, and taking note of the submissions made across the Bar, I am not inclined to exercise the discretionary powers of this Court under Article 226 of the Constitution of India and entertain the writ petition. Nonetheless, it would be up to the petitioner to work out his statutory remedies as provided under the Act.

Resultantly, the writ petition is dismissed, without prejudice to the right of the petitioner to work out his remedies, in accordance with law.