(2024) 10 KL CK 0006

In the High Court Of Kerala

Case No : Writ Petition (C) NO. 34618 Of 2024

P M Sreenivasan APPELLANT

Vs

State Bank Of India RESPONDENT

Date of Decision : 04-10-2024

Acts Referred:

Citation : (2024) 10 KL CK 0006

Hon'ble Judges : Dinesh Kumar Singh, J

Bench : Single Bench

Advocate : K.V.Rashmi, Lakshmi, Rahul Anil, C.Ajith Kumar

Final Decision : Disposed Of

Judgement

Dinesh Kumar Singh, J

1. The present Writ Petition has been filed seeking the following prayers:

i) issue a Writ of Mandamus or any other appropriate Writs, Orders or Directions commanding the respondents toprovide instalment facility for regularising the loan covered in Ext. P5 by way of equal 18 monthly instalments along with regular down payments to the loan account as prayed for in Ext. P6 request,

ii) Issue a Writ of Mandamus or other appropriate Writs, Orders or Directions directing the respondents to consider and pass appropriate orders on Ext. P6 request for settlement of the loan, within a time frame fixed by this Hon’ble Court,

iii) Issue a writ to declare that the stands of the respondents that once coercive proceedings have been initiated against the defaulters, any regularization facility could be granted as illegal and arbitrary.

iv) Issue a Writ of Mandamus or other appropriate Writs, Orders or Directions to the respondents to keep in abeyance all coercive steps pursuant to Ext. P5, pending disposal of the above Writ Petition,

v) To grant such the relief sought from time to time including the cost of this proceeding.

2. The petitioner along with his wife had availed a housing loan for an amount of Rs.12,00,000/- on 20.05.2013 and a home decor loan of Rs.3,00,000/- on 08.07.2013. The petitioner has also availed a car loan of Rs.5,55,293/- on 03.03.2016 and a cash credit facility under the Mudra Loan Scheme on 08.03.2016. The petitioner has defaulted in making repayment of the loans taken from the respondent bank. Therefore, the bank after classifying the petitioner's loan accounts as NPA, has proceeded under the provisions of the SARFAESI Act and Rules made thereunder. The possession of the secured asset is scheduled on 05.10.2024.

3. The learned counsel for the bank submits that if the petitioner makes payment of substantial amount upfront and agrees to pay the balance amount in few instalments as this Court may direct, the bank will not proceed further against the petitioner under the provisions of the SARFAESI Act and Rules made thereunder. As on today, Rs.35,09,039.85/- is the total outstanding amount.

4. Considering the said stand of the learned counsel for the bank, the present writ petition is disposed of in the following terms:

i. The petitioner shall pay an upfront amount of Rs.2,00,000/- today itself to the bank and further amount of Rs.3,00,000/- on or before 31.10.2024. The remaining outstanding amount is to be paid in 12 equal monthly instalments. The 1st instalment shall be paid on or before 15.11.2024 and remaining 11 instalments on or before 15th day of each succeeding month.

ii. In case of failure to make payment of Rs.2,00,000/- or Rs.3,00,000/- or any subsequent instalments as directed above, the bank shall be free to proceed further with SARFAESI proceedings against the petitioner, and after taking possession of the secured asset, may dispose it of, to realize the outstanding dues from the petitioner.

With the aforesaid directions, the present writ petition stands finally disposed of.

