

(2023) 08 KL CK 0081

In the High Court Of Kerala

Case No : Writ Petition (C) No. 26211 Of 2023

Padmini P.A

APPELLANT

Vs

Kerala State Co Operative Bank Ltd (Kerala Bank)

RESPONDENT

Date of Decision : 09-08-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 08 KL CK 0081

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

Bench : Single Bench

Advocate : K.M.Muhammed Hussain, Manumon A.,P.C.Sasidharan

Final Decision : Disposed Of

Judgement

C. S. Dias, J

1. The writ petition is filed to direct the respondents to permit the petitioners to pay off the overdue amount in equated monthly instalments and regularise the loan account.

2. The petitioners' case is that, they had availed financial assistance from the second respondent – Bank – by creating an equitable mortgage. Due to unforeseen circumstances, they could not pay the EMIs on time. Now, the respondents have initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and are proceeding against the secured asset. The petitioners are prepared to pay off the overdue amount in equated monthly instalments. Hence, the writ petition.

3. Heard; Sri. K.M.Muhammed Hussain, the learned counsel appearing for the petitioners and Sri. P.C. Sasidharan, the learned counsel appearing for the respondents.

4. Sri. P.C. Sasidharan, on instructions, submitted that, as on today, the overdue

amount is Rs.11,13,433/-. The tenure of the loan is till 2027. The respondents are willing to permit the petitioners to pay off the overdue amount in eight equated monthly instalments. The said submission is recorded.

5. The learned counsel for the petitioners has submitted that, as the tenure of the loan is till 2027, the petitioners may be granted at least 15 instalments to pay off the overdue amount with EMIs.

6. Having considered the pleadings and materials on record, and in the light of the submission made by the learned counsel appearing for parties, to provide the petitioners one last opportunity, 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 proceedings pursuant to Exts P1 to P4, to enable the petitioners to pay off the overdue amount in instalments.
- (ii) The petitioners are permitted to pay the overdue amount with future interest and cost to the second respondent in twelve equated monthly instalments commencing from 09.09.2023 along with regular EMIs.
- (iii) Needless to mention, if the petitioners commit default in respect of any of the conditions ordered above, they 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.
- (iv) It is made clear that, no further application for modification/extension of time shall be entertained.