

(2023) 08 KL CK 0169

In the High Court Of Kerala

Case No : Writ Petition (C) No. 27294 Of 2023

Park Diamonds, Franchise Shop Of Gitanjali Lifestyle Ltd

APPELLANT

Vs

Assistant Commissioner, (Formerly State Tax Officer)

RESPONDENT

Date of Decision : 18-08-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 08 KL CK 0169

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

Bench : Single Bench

Advocate : R.Muraleedharan, R.Ramakrishnan Potty, Thushara James

Final Decision : Disposed Of

Judgement

C. S. Dias, J

1. The writ petition is filed, inter alia, to direct the respondent to permit the petitioner to pay the overdue amount in equated monthly instalments and regularise the loan account.

2. The petitioner's case is that he had availed financial assistance from the respondent – Bank to purchase a Tipper Lorry bearing Reg.No.KL-33-H 8924. Due to reasons beyond his control, he could not pay the instalments on time. The respondent has threatened to repossess the vehicle by invoking the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, 'Act'). The petitioner is willing to pay the overdue amount in equated monthly instalments and regularise the loan account. Hence, the writ petition.

3. Heard; Sri.Anzar Basheer, the learned counsel appearing for the petitioner and Sri.Varghese C.Kuriakose, the learned counsel appearing for the respondent.

4. Sri.Varghese C.Kuriakose, the learned standing counsel appearing for the respondent, on instructions, submitted that the overdue amount as on today is

Rs.3,00,438/-. The tenure of the loan is till 10.8.2025. The respondent is willing to permit the petitioner to pay the overdue amount in ten equated monthly instalments along with the regular EMIs. The said submission is recorded.

5. The learned counsel appearing for the petitioner submitted that the petitioner is ready to accept the above offer. But may be permitted to pay the above amount in twelve equated monthly instalments.

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 overdue amount, 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 respondent is directed to defer further coercive proceedings pursuant to Ext.P2 notice to enable the petitioner to pay the overdue amount in equated monthly instalments.

(ii) The petitioner is permitted to pay the overdue amount as stated above with future interest and cost to the respondent – Bank – in twelve equated monthly instalments commencing from 18.9.2023 along with regular EMIs.

(iii) Needless to mention, if the petitioner commits default of the condition ordered above, the petitioner would lose the benefit of this judgment and the respondent 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.