(2023) 07 KL CK 0165

In the High Court Of Kerala

Case No : Writ Petition (C) No. 24219 Of 2023

Pathumma	APPELLANT
Vs	
IDBI Bank	RESPONDENT

Date of Decision : 24-07-2023

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2023) 07 KL CK 0165

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

Bench : Single Bench

Advocate : P.Sanjay, A.Parvathi Menon, Biju Meenattoor, Paul Varghese, P.A.Mohammed Aslam, Kiran Narayanan, Jaleel.T., Rahul Raj P., Amrutha M. Nair, Muhammed Bilal.V.A, Rema

Final Decision : Disposed of

Judgement

C.S.Dias, J.

1. The writ petition is filed to direct the respondent to permit the petitioners to pay off the outstanding amount in equated monthly instalments and close the loan account.

2. The petitioners' case is that they had availed a housing loan from the respondent – Bank – by creating an equitable mortgage. Due to reasons beyond their control, they could not pay the instalments on time. Now, the respondent has initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and is proceeding against the secured asset. The petitioners are willing to pay off the outstanding amount in equated monthly instalments and close the loan account. Hence, the writ petition.

3. Heard; Sri. P. Sanjay, the learned counsel appearing for the petitioners and Smt. R. Rema, the learned standing counsel appearing for the respondent.

4. Smt. R. Rema, on instructions, submitted that, the outstanding amount as on 20.07.2023 is Rs.46,86,342/-. The respondent is willing to permit the petitioners to pay the outstanding amount in eight equated monthly instalments. The said submission is recorded.

5. The learned counsel for the petitioners submitted that the petitioner may be granted at least 10 equated monthly instalments to pay off the outstanding amount.

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 petitioners one last opportunity to clear off the liability, 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 proceedings pursuant to Ext P1 notice, to enable the petitioners to pay off the outstanding amount in instalments.

(ii) The petitioners are permitted to pay the outstanding amount as stated above with future interest and cost to the respondent – Bank in 10 equated monthly instalments commencing from 24.08.2023.

(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 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.

