(2012) 08 KL CK 0166

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 16631 of 2012 (D)

Patrick APPELLANT

Vs

The Federal Bank Ltd. RESPONDENT

Date of Decision : 21-08-2012

Acts Referred:

Citation : (2012) 08 KL CK 0166

Hon'ble Judges : P.R. Ramachandra Menon, J

Bench : Single Bench

Advocate : K.S. Manu Punukkonnoor and Sri. M.J. Abraham, for the Appellant; George Varghese (Manachirackel) and Smt. Liza P. Cherian, for the Respondent

Judgement

Justice P.R. Ramachandra Menon

APPENDIX

PETITIONER(S) EXHIBITS:

EXHIHIT P1:

Copy of Notice Dated 9/2/2012 Issued To The Petitioner.

EXHIHIT P2:

Copy of The Receipt Dated 9/5/2012 Issued To The Petitioner.

EXHIHIT P3:

Copy of Notice Dated 10/7/2012 Issued To The Petitioner.

RESPONDENT''S EXHIBITS:

NIL

1. The petitioner availed a loan of Rs. Three lakhs from the respondent Bank, creating security interest over the property in question. Because of the adverse circumstances, the repayment could not effected on time, as scheduled, which

made the petitioner a defaulter and the Bank proceeded with the steps under the SARFAESI Act, after declaring the account as ''NPA'', which made the petitioner to approach this Court by filing this writ petition. The Learned Counsel appearing for the respondent Bank submits that as on today a sum of Rs. 2,39,943/- is due from the petitioner and since the tenure for repayment is already over, the question of regularization does not arise.

2. The Learned Counsel for the petitioner submits that the default was never wilful, but because of some frustrating pecuniary circumstances. It is also stated that there is no dispute whatsoever with regard to the liability to pay the amount, nor is there any challenge against the rights and liberties of the Bank to proceed with steps under the SARFAESI Act. The Learned Counsel for the petitioner submits that the only relief now pressed before this Court is to permit the petitioner to clear the entire liability by way of reasonable installments. Considering the facts and circumstances, this Court finds it fit and proper to permit the petitioner to clear the entire liability by way of reasonable installments. Accordingly, the petitioner is directed to clear the entire outstanding liability by way of ''eight'' equal monthly installments; the first of which shall be effected on before the 15th of September, 2012; to be followed by similar installments to be effected on or before the 15th of the succeeding months. Subject to this, the recovery proceedings stated as being pursued against the petitioner shall be kept in abeyance for the time being. It is made clear that, if the petitioner commits any default in remitting the installments as above, the respondent Bank will be at liberty to proceed with further steps for realization of the entire amount in lump, from the stage where it stands now.

The Writ Petition is disposed of.

