(2023) 07 KL CK 0066

In the High Court Of Kerala

Case No : Writ Petition (C) No. 4448 Of 2023

Pradeep Chandran Ramani	APPELLANT
Vs	
Cholamandalam Investment And Finance Co. Ltd	RESPONDENT

Date of Decision : 07-07-2023

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2023) 07 KL CK 0066

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : Latheesh Sebastian, P.V.Saritha Venugopal, N.P.Ruksana, Rohini P.K.

Final Decision : Disposed Of

Judgement

C.S.Dias, J

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

2. The petitioner's case is that, he had availed financial assistance from the respondent bank by creating an equitable mortgage by deposit of title deeds. Due to reasons beyond his control, he could not pay the instalments on time. The respondents have proceeded against the secured asset under 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 instalments. Hence, the writ petition.

3. Heard; Sri.Latheesh Sebastian, the learned Counsel appearing for the petitioner and Smt.P.V.Saritha, the learned Counsel appearing for the respondents.

4. Smt.P.V.Saritha, on instructions, submitted that the overdue amount as on 30.06.2023, is Rs.2,70,000/-. The respondents are willing to permit the petitioner to pay the overdue amount in six equated monthly instalments. The

said submission is recorded.

5. The learned Counsel appearing for the petitioner submitted as the tenure of the loan is till 2038, the petitioner may be granted atleast twelve 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 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 respondents are directed to defer further coercive proceedings pursuant to Exts.P1 and P2 to enable the petitioner to pay the overdue amount in equated monthly instalments as stated below.

(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 07.08.2023 along with regular EMIs.

(iii) Needless to mention, if the petitioner commits default in the condition ordered above, the petitioner would 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.