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(2023) 05 KL CK 0179

In the High Court Of Kerala

Case No : Writ Petition (C) No. 15785 Of 2023

Prema Kumari — APPELLANT

Vs

Ottapalam Co Operative Urban Bank Ltd — RESPONDENT

Date of Decision : 24-05-2023

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2023) 05 KL CK 0179

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : K.Rakesh, Vinodh Madahavan

Final Decision : Disposed Of

Judgement

C.S.Dias, J

1. The writ petition is filed to direct the respondent – Bank – to permit the petitioner to pay the overdue amount in equated monthly instalments.

2. The petitioner's case is that he had availed a loan of Rs.2,50,000/- from the respondent by creating an equitable mortgage. Due to circumstances beyond his control, he could not pay the loan amount. Now, Ext P2 notice has been issued by an Advocate Commissioner to take possession of the property under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act. The petitioner is prepared to pay off the overdue amount in equated monthly instalments. Hence, the writ petition.

3. Heard; Sri. K. Rakesh, the learned counsel appearing for the petitioner and Sri. Vinodh Madhavan, the learned counsel appearing for the respondent – Bank.

4. Sri. Vinodh Madhavan, on instructions, submitted that an amount of Rs.3,22,355/- is overdue from the petitioner. The respondent is prepared to accept the overdue amount in six equated monthly instalments. The said submission is recorded. The learned counsel for the petitioner has accepted the

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above conditions of the respondent.

5. 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 petitioner 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 respondent is directed to defer further proceedings pursuant to Ext P2 notice, to enable that the petitioner to discharge the loan amount.

(ii) The petitioner is permitted to pay off the overdue amount with interest and costs in six equated monthly instalments commencing from 01.07.2023, along with regular EMIs.

(iii) Needless to mention, if the petitioner commits default in respect of any of the conditions ordered above, he 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.

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