
(2023) 05 KL CK 0153
In the High Court Of Kerala
Case No : Writ Petition (C) No.14884 Of 2023

Rajan.W

APPELLANT

Vs

Kerala Bank Ltd

RESPONDENT

Date of Decision : 23-05-2023

Acts Referred:

Citation : (2023) 05 KL CK 0153

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : Latheesh Sebastian, Thomas Abraham

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 off the loan amount in equated monthly instalments.
2. The petitioner's case is that he had availed a loan from the first respondent – Bank - by creating an equitable mortgage. However, due to the COVID-19 pandemic, the petitioner could not fulfil his contractual obligations. The petitioner had approached this Court by filing WP(C) 2340/2018, which was allowed by Ext P1 judgment permitting the petitioner to pay off the overdue EMIs in fifteen equal monthly instalments commencing from February, 2018. Yet, the petitioner could not comply with the directions in Ext P1 judgment. The third respondent has initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act. The petitioner is prepared to pay off the outstanding amount in instalments fixed by this Court. Hence, the writ petition.
3. Heard; Sri.Latheesh Sebastian, the learned counsel appearing for the petitioner and Sri.Thomas Abraham, the learned counsel appearing for the respondents.

4. Sri.Thomas Abraham submitted that, the petitioner had availed the loan in the year 2013 with tenure of ten years. The loan term ends on 14.9.2023. As on 2.5.2023, an amount of Rs.16,76,697/- is due from the petitioner. If the petitioner pays off the entire loan amount of Rs.17,67,697/- on or before 14.9.2023, the Bank has no objection in the writ petition being entertained. The said submission is recorded.

5. The learned counsel appearing for the petitioner submitted that the petitioner is ready to accept the offer of the respondents.

6. Having considered the pleadings and materials on record and the submission made by the learned counsel appearing for the parties, to provide the petitioner one last opportunity to pay off the loan amount, 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 respondents are directed to defer further coercive proceedings pursuant to Ext P2 notice, to enable the petitioner to discharge the loan amount.

(ii) The respondents shall accept the amount from the petitioner as ordered herein below.

(iii) The petitioner shall deposit with the respondents the entire loan amount of Rs17,67,697/- in four equated monthly instalments commencing from 14.6.2023.

(iv) 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.

(v) It is made clear that, no further application for modification/extension of time shall be entertained.