

(2023) 06 KL CK 0346

In the High Court Of Kerala

Case No : Writ Petition (C) No. 30862 Of 2021

Rajendra Babu P

APPELLANT

Vs

Reserve Bank Of India

RESPONDENT

Date of Decision : 22-06-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 06 KL CK 0346

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

Bench : Single Bench

Advocate : S.Dileep, Varghese C.Kuriakose

Final Decision : Dismissed

Judgement

C.S Dias, J

1. The writ petition is filed, inter alia, to direct the second respondent to consider and dispose of Ext.P4 representation, within a time frame.

2. The petitioners' case is that, he had availed financial assistance from the second respondent-company- by creating an equitable mortgage. Due to reasons beyond his control, he could not pay the instalments on time. The respondents 2 and 3 have proceeded against the secured asset of the petitioner under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI Act'). The petitioner filed W.P. (C)No.28240/2019 before this Court. By Ext.P6 judgment dated 24.10.2019, this Court directed the petitioner to deposit an amount of Rs.5,00,000/- within two weeks from the judgment and then submit a representation to the respondent-company. Thereafter, the petitioner submitted Ext.P4 representation, but, the respondents 2 and 3 have not considered the same and are proceeding against the secured asset of the petitioner. Hence, the writ petition.

3. Heard; Sri.Dileep S. Kallar, the learned counsel appearing for the petitioner and Sri. Varghese C.Kuriakose, the learned counsel appearing for the

respondents 2 and 3.

4 Sri. Varghese C. Kuriakose, on instructions, submitted that, Ext.P6 judgment was passed by this Court on 24.10.2019, directing the petitioner to deposit an amount of Rs.5,00,000/- within two weeks from the date of the judgment. The petitioner did not comply with the said judgment. Later, after about two years that the petitioner has preferred Ext.P4 representation. The writ petition is devoid of any merits and is only liable to be dismissed.

5. The Hon'ble Supreme Court in South Indian Bank Ltd vs. Naveen Mathew Philip (2023 LiveLaw (SC) 320), after adverting to a myriad of earlier judicial pronouncements rendered under the Act, has categorically declared that High Courts shall not, unless in extraordinary circumstances, interfere with proceedings initiated under the Act, in writ proceedings filed under Article 226 of the Constitution of India.

6. Having considered the pleadings and materials on record, and taking note of the fact that the petitioner has failed to avail the benefit of Ext.P6 judgment, I do not find any extra-ordinary circumstances to entertain the writ petition by exercising the plenary powers of this Court under Article 226 of the Constitution of India. Nonetheless, it would be up to the petitioner to work out his statutory remedies in accordance with law.

Resultantly, the writ petition is dismissed, without prejudice to the right of the petitioner to work out his remedies, in accordance with law.