

(2023) 06 KL CK 0389

In the High Court Of Kerala

Case No : Writ Petition (C) No. 24751, 24765 Of 2022

Rajesh K G

APPELLANT

Vs

UCO Bank

RESPONDENT

Date of Decision : 27-06-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 06 KL CK 0389

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : Anil S.Raj, K.N.Rajani, Radhika Rajasekharan P., Anila Peter, Muhammed Haris K.K., Simi S. Ali, Sneha S. Menon, H Ramanan

Final Decision : Dismissed

Judgement

C.S.Dias, J

1. The writ petitions are filed to direct the respondents to permit the petitioners in the two writ petitions to pay off the overdue amount in equated monthly instalments and regularise the loan accounts.

2. The petitioners in the two writ petitions are husband and wife. They had availed financial assistance from the first respondent – Bank – by creating an equitable mortgage by deposit of title deeds. Due to reasons beyond their control, they could not pay the instalments on time. The respondents have now proceeded against the secured asset of the petitioners under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'Act'). The petitioners are prepared to pay off the overdue amount in instalments. Hence, the writ petition.

3. When the writ petitions came up for consideration on 20.02.2023, this Court passed a conditional order and directed the petitioners to submit a proposal before the Bank for settlement of the dues. The first respondent was directed to consider the application to extend the One Time Settlement(OTS) scheme to the

petitioners, subject to the condition that they deposit an amount of Rs.5,00,000/-.

4. Heard; Sri.Anil S.Raj, the learned counsel appearing for the petitioners and Sri.H.Ramanan, the learned counsel appearing for the respondents.

5. Today, when the writ petitions were taken up for consideration, Sri.H.Ramanan, on instructions, submitted that pursuant to the interim order dated 20.02.2023, the petitioners had submitted a proposal to avail the OTS scheme. The Bank after considering the said proposal, rejected the same on 12.04.2023. The Bank is not willing to extend any instalment facility to the petitioners. The petitioners may be relegated to exhaust their statutory remedies.

6. The Hon'ble Supreme Court in *South Indian Bank Ltd vs. Naveen Mathew Philip* (2023 LiveLaw (SC) 320), after advertng 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.

7. In *State Bank of India v. Aravindra Electronics Pvt. Ltd.* [2022 KHC 7165], the Hon'ble Supreme Court has categorically held that the High Courts shall not extend the time period under the OTS scheme in exercise of its powers under Article 226 of the Constitution of India.

8. Having considered the pleadings and materials on record, and taking note of the fact that the Bank has already rejected the proposal submitted by the petitioners to avail the OTS scheme, 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 petitioners to work out their statutory remedies as provided under the Act.

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