

(2021) 01 KL CK 0094

In the High Court Of Kerala

Case No : Writ Petition (C) No. 28370 Of 2020

Renjini S

APPELLANT

Vs

Kollam Co-Operative Urban Bank Ltd And Ors

RESPONDENT

Date of Decision : 05-01-2021

Acts Referred:

Citation : (2021) 01 KL CK 0094

Hon'ble Judges : Devan Ramachandran, J

Bench : Single Bench

Advocate : V. Premchand, Surya Mohan P, D.P. Renu

Judgement

1. Through this writ petition, the petitioner calls into question certain proceedings initiated and being pursued by the respondent Bank under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act ('the SARFAESI Act' for brevity).

2. I have heard the learned counsel for the petitioner and the learned counsel for the respondent Bank.

3. As I proceed to consider the reliefs prayed for by the petitioner herein, I am conscious that I am jurisdictionally proscribed from entering into any enquiry or consideration of the legality or otherwise of the orders impugned in this writ petition on account of the imperative statutory provisions and the binding judicial pronouncements, especially that of the Hon'ble Supreme Court in Union Bank of India v. Satyawati Tondon [(2010) 8 SCC 110] and in Authorised Officer, State Bank of Travancore and Another v. Mathew K.C. [2018 (1) KLT 784]. I, therefore, cannot and do not propose to consider any of the legal contentions raised by the petitioner on its merits.

4. However, obviously being aware of this, the learned counsel appearing for the petitioner has prayed that notwithstanding the limitations of jurisdiction as aforementioned, the petitioner may be granted some leniency or latitude in order to enable her to pay off the overdue amounts in installments.

5. I, therefore, enquired with the learned counsel for the Bank as to whether the request on the part of the petitioner can be allowed, especially on account of the fact that the Banks are only interested in recovering and not in maintaining and keep pending litigations and legal proceedings against such recovery. The learned counsel has fairly submitted that the Bank is concerned about recovery at the earliest and that if the petitioner pays off the dues quickly, it would be to their interest also.

6. In view of the fact that the proceedings initiated by the Bank would consume time to culminate in total recovery and taking into account the financial constraints and burden that have been alleged and pleaded by the petitioner, I am inclined to dispose of this writ petition allowing her an opportunity to pay off the overdue amounts demanded by the Bank.

7. The learned counsel for the Bank at this time submits that the petitioner can be allowed to pay off the overdue amount of Rs.7,60,172/- as on 05.01.2021 in not more than eight instalments commencing from 05.02.2021 and that the account can thus be regularised by the Bank.

8. The learned counsel for the petitioner says that the petitioner is agreeable to the above offer made by the Bank and therefore that the writ petition may be ordered granting permission to the petitioner to pay off the amount in the manner as afore.

9. In such circumstances, I direct the petitioner to pay off the aforementioned overdue amount of Rs.7,60,172/- as on 05.01.2021, along with applicable charges and interest, in eight equal monthly instalments commencing from 05.02.2021. She shall also, in addition to this, pay the regular EMIs without fail. If such payment is made by the petitioner, her loan account would stand regularised and she would then be at liberty to service the account as per the terms of the loan sanctioned. It goes without saying that if there is any default in making the payment as directed above, the benefit granted under this judgment would stand vacated and the Bank will be at liberty to recover the entire liability from the petitioner by continuing with the proceedings from the stage it is on this date.

10. I make it clear that the directions in this judgment are peremptory in nature and that the petitioner will have to comply with the same meticulously. I caution the petitioner that no further requests for extension or modification of this judgment, save in exceptional circumstances, will be permitted and that if the petitioner fails to comply with the directions herein, she will lose the benefit of this judgment.

The writ petition is ordered accordingly.