(2023) 06 KL CK 0088

In the High Court Of Kerala

Case No : Writ Petition (C) No. 7684 Of 2023

Reshmi S. Kumar APPELLANT

Vs

Authorized Officer, Canara Bank RESPONDENT

Date of Decision : 07-06-2023

Acts Referred:

Citation : (2023) 06 KL CK 0088

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

Bench : Single Bench

Advocate : T.C.Suresh Menon, B.Deepak, Gopikrishnan Nambiar

Final Decision : Dismissed

Judgement

C.S.Dias, J

1. The writ petition is filed, inter alia, to direct the first respondent to consider Ext.P5 representation submitted by the petitioner to grant her the benefit of the One-time Settlement Scheme.

2. The petitioner’s case is that, her husband had availed a loan from the third respondent by creating an equitable mortgage. However, due to grave financial crisis, her husband committed suicide. The respondents have now proceeded against the secured asset under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short ‘SARFAESI Act’). The petitioner has submitted Ext.P5 representation dated 28.2.2023, volunteering to pay off the outstanding amount by availing the One-time Settlement Scheme. Notwithstanding the pendency of Ext.P5 representation, the respondents are proceeding to take possession of the secured asset. Hence, the writ petition.

3. Heard; Sri.T.C.Suresh Menon, the learned counsel appearing for the petitioner and Sri. Gopikrishnan Nambiar, the learned counsel appearing for the respondents.

4. Sri.Gopikrishnan Nambiar, on instructions, submitted that, the writ petition has become infructuous because Ext.P5 representation was considered by the respondents on 24.3.2023, by granting the petitioner 18 days time to pay the outstanding amount. Since, the respondents have already granted the petitioner an extension, this Court may not entertain the writ petition and enlarge the time period in the light of the law laid down by the Honourable Supreme Court in State Bank of India v. Arvindra Electronics Private Ltd.[2022 KHC 7165]. Hence, the writ petition may be dismissed.

5. When the writ petition came up for consideration on 3.4.2023, this Court directed coercive proceedings to be deferred and directed the petitioner to clear the outstanding amount before 24.5.2023. On 25.5.2023, the learned counsel appearing for the petitioner submitted that the petitioner has paid an amount of Rs.1,04,00,000/-and has approached the bank for the waiver of the interest quotient of Rs.26,00,000/-.

6. Having considered the pleadings and materials on record and the submission made across the bar, especially the law laid down by the Hon'ble Supreme Court, I do not find any extra ordinary circumstances made out in the writ petition to enlarge the time period already granted by the third respondent. Nonetheless, it would be up to the petitioner to approach the third respondent-Bank and seek for their indulgence, if not, exhaust her statutory remedy as provided under the Act.

Resultantly, without prejudice to the right of the petitioner to workout her remedies, in accordance with law, the writ petition is dismissed.