

(2023) 06 KL CK 0341
In the High Court Of Kerala
Case No : Writ Petition (C) No. 2108 Of 2022

Sajeev B

APPELLANT

Vs

Authorised Officer Mahindra Rural Housing Finance Limited

RESPONDENT

Date of Decision : 22-06-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 06 KL CK 0341

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

Bench : Single Bench

Advocate : Raghul Sudheesh, K.J.Glaxon, C.R.Sudheesh, J.Lakshmi, A.L.Krishna Priya, K.Biju, M.A.Joseph Manavalan

Final Decision : Disposed Of

Judgement

C.S Dias, J

1. The writ petition is filed to direct the respondents to permit the petitioners to pay off the outstanding amount in equated monthly instalments.
2. The petitioners' case is that they had availed a housing loan from the second respondent – Bank – by creating an equitable mortgage. Due to unforeseen circumstances, they could not pay the instalments on time. The Bank has initiated proceedings against the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, 'Act'). The petitioners are prepared to pay the outstanding amount in equated monthly instalments. Hence, the writ petition.
3. Heard; Sri.C.R Sudheesh, the learned counsel appearing for the petitioner and Sri.K.Biju, the learned counsel appearing for the respondents.
4. Sri.K.Biju, on instructions, submitted that as on 22.6.2023, the outstanding amount is Rs.7,93,128/-. The respondents are willing to permit the petitioners to pay the above outstanding amount in six equated monthly instalments. The said

submission is recorded.

5. The learned counsel appearing for the petitioners submitted that the petitioners are ready to accept the above offer.

6. Having considered the pleadings and materials on record, the submissions made by the learned counsel appearing for the parties, the consensus arrived at between the parties and to provide the petitioners one last opportunity to clear off the liability, I am inclined to exercise the powers of this Court under Article 226 of the Constitution of India and entertain 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 Exts P1 and P2, to enable the petitioners to pay the liability in equated monthly instalments as stated below.

(ii) The petitioners are permitted to pay the outstanding amount as stated above with future interest and cost to the second respondent – Bank – in six equated monthly instalments commencing from 22.7.2023.

(iii) Needless to mention, if the petitioners commit default in any of the conditions ordered above, the petitioners would lose the benefit of this judgment and the respondents would be at liberty to proceed with recovery proceedings from the stage it presently stands.

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