(2010) 09 KL CK 0231

In the High Court Of Kerala

Case No : Writ Petition (C) No. 13442 of 2010 (E)

Santhosh APPELLANT

Vs

The Authorised Officer/Chief Manager and The Branch Manager, State Bank RESPONDENT

Date of Decision : 06-09-2010

Acts Referred:
Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) — Section 14

Citation : (2010) 09 KL CK 0231

Hon'ble Judges : P.R. Ramachandra Menon, J

Bench : Single Bench

Advocate : Pratheesh P, for the Appellant; R.S. Kalkura, for the Respondent

Judgement

1. The petitioner availed a loan of Rs. 5.5 lakhs from the respondent Bank on 26.2.2008, on the strength of the security interest created over the property in question, agreeing to repay the liability by way of sixty equal monthly installments. However, the petitioner remitted only the first installment, under which circumstance, the account was declared as ''NPA'' and the Bank proceeded with the steps under SARFAESI Act, including by filing Ext.P1 petition before the concerned Chief Judicial Magistrate''s Court, u/s 14 of the Act, for rendering necessary assistance to take physical possession of the property, which in turn is under challenge in this Writ Petition.

2. When the matter came up for consideration on 20.4.2010, the coercive proceedings were intercepted, on condition that, the petitioner deposited a sum of Rs. 1,50,000/- within three weeks, which period was subsequently enlarged on filing I.A. No. 8012 of 2010, allowed on 22.6.2010. The learned Counsel submits that the condition imposed by this Court has been complied with.

3. The learned Counsel appearing for the respondent Bank submits, with reference to the contents of the statement filed on behalf of the respondents 1 and 2, that the petitioner was a chronic defaulter, having admittedly repaid only

the first installment followed by the payment of Rs. 1.5 lakhs, pursuant to the interim order By virtue of the nature and Scheme of the loan extended to the petitioner, the respondent Bank is stated as not in a position to regularize the loan account.

4. The learned Counsel for the petitioner submits that, the petitioner is taking every earnest efforts to see that the entire liability towards the Bank is wiped off within the shortest possible time and that the petitioner may be given some breathing in this regard, by providing some reasonable installments. The learned Counsel also submits that the petitioner does not intend to challenge the sustainability of the steps taken by the Bank resorting to the remedy under the SARFAESI Act.

5. Taking note of the particular facts and circumstances, this Court finds it fit and proper to permit the petitioner to have the liability wiped off in a phased matter. Accordingly, the petitioner is directed to clear the entire outstanding liability, which is stated as more than Rs. 6 lakhs as on date, by way of ''8'' equal monthly installments; the first of which shall be paid on or before the 30th of July, 2010; to be followed by similar installments to be effected on or before the 30th of the succeeding months. Subject to this, the coercive proceedings stated as being pursued against the petitioner shall be kept in abeyance, for the time being. It is made clear that, if the petitioner commits any default in effecting the installments as above, the respondents will be at liberty to proceed with further steps for realization of the entire amount in lump sum.

The Writ Petition is disposed of accordingly.

