(2022) 06 KL CK 0219

In the High Court Of Kerala

Case No : Writ Petition (C) No. 19013 Of 2022

Santhosh Kumar T	APPELLANT
Vs	
State Bank Of India	RESPONDENT

Date of Decision : 20-06-2022

Acts Referred:

Citation : (2022) 06 KL CK 0219

Hon'ble Judges : N.Nagaresh, J

Bench : Single Bench

Advocate : V.A.Muhammed, Ebin Mathew, Thasneem Basheer, Jawahar Jose

Final Decision : Disposed Of

Judgement

N.Nagaresh, J

1. The petitioner and his wife availed a housing loan of ☐ 45 lakhs from the 2nd respondent-Bank. The petitioner now is before this Court seeking to command the 1st respondent to grant 25 Equal Monthly Instalments facility to the petitioner to clear the outstanding dues.

2. The petitioner states that he has availed a loan of ☐ 45 lakhs for construction of a house. The petitioner has been working in Saudi Arabia till 2019 and was paying EMIs promptly. The petitioner lost his job and he had to return to India. The Covid-19 pandemic and consequential financial distress pushed the petitioner to default in payment. Now, the 2nd respondent has taken coercive proceedings and Ext.P1 Sale Notice has been published proposing to sell the secured property. The sale is scheduled to be held on 22.06.2022.

3. The petitioner states that he has not committed deliberate defaults in making repayments. The omission to pay back during the past period was for reasons beyond the petitioner's control. If the petitioner is granted 25 months time to repay the amount in instalments, the petitioner will clear the outstanding dues.

4. The Standing Counsel entered appearance for respondents 1 and 2 and

resisted the writ petition. The Standing Counsel controverted all the material allegations made by the petitioner in the writ petition. It was pointed out that as on 09.05.2022, the total amount due from the petitioner is ☐ 47,27,276/-.

5. The Standing Counsel pointed out that the loan was recalled in the year 2019 and O.A. No.343/2020 was filed before the Debt Recovery Tribunal in the year 2020. The petitioner did not respond to the proceedings and did not make any payment. It was in such circumstances that the respondents are forced to issue Ext.P1 Sale Notice. The petitioner cannot be granted 25 months to pay the outstanding amount. If the petitioner is ready to pay the entire dues along with accruing interest, the petitioner can be granted a very short breathing time to make payment.

6. I have heard the learned counsel for the petitioner and the learned Standing Counsel representing the respondents.

7. The petitioner availed the loan when he was employed in Saudi Arabia. In 2019, the petitioner had to come back from Saudi Arabia. Thereafter, due to Covid-19 pandemic, the petitioner faced financial distress and the remittance could not be made.

8. In view of the facts projected in the writ petition, this Court is of the view that a short time can be granted to the petitioner to clear the dues.

9. In the circumstances, the writ petition is disposed of with the following directions:-

(1) The petitioner shall remit an amount of `5 lakhs on or before 22.06.2022. The balance amount due to the Bank along with accruing interest and other charges, if any, shall be paid by the petitioner in 12 consecutive equal monthly instalments thereafter.

(2) If the petitioner commits default in making payments as directed above, the respondents will be at liberty to proceed against the petitioner, in accordance with law.

(3) If the petitioner makes payment as directed above, the respondents shall defer all coercive proceedings against the petitioner and his sureties.