(2023) 07 KL CK 0139

In the High Court Of Kerala

Case No : Writ Petition (C) No. 5737 Of 2023

Sathyan M.G. APPELLANT

Vs

Reserve Bank Of India RESPONDENT

Date of Decision : 19-07-2023

Acts Referred:

Citation : (2023) 07 KL CK 0139

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

Bench : Single Bench

Advocate : S.Dileep, P.V.Saritha Venugopal, N.P.Ruksana, Rohini P.K.

Final Decision : Disposed Of

Judgement

C.S.Dias, J

1. The writ petition is filed to direct the respondents 2 and 3 to permit the petitioner to pay off the overdue amount in equated monthly instalments and regularise the loan account.

2. The petitioner's case is that he had availed a housing loan from the second respondent – Company – by creating an equitable mortgage by deposit of title deeds. Due to the COVID-19 pandemic, his business collapsed. Hence, he was unable to pay the instalments on time. The respondents 2 and 3 have initiated proceedings against the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, 'Act'). The petitioner is willing to pay the overdue amount in equated monthly instalments. Hence, the writ petition.

3. Heard; Sri.Dileep S.Kallar, the learned counsel appearing for the petitioner and Smt.P.V Saritha Venugopal, the learned counsel appearing for the respondents 2 and 3.

4. Smt.P.V Saritha Venugopal, on instructions, submitted that the overdue amount as on 18.7.2023 is Rs.3,90,384/-. The respondents 2 and 3 are willing to

permit the petitioner to pay the overdue amount in six equated monthly instalments. The said submission is recorded.

5. The learned counsel appearing for the petitioner submitted that as the tenure of the loan is till 2036, the petitioner may be granted at least fifteen equated monthly instalments to pay the overdue amount.

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 petitioner 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 2 and 3 are directed to defer further coercive proceedings pursuant to Ext P2 notice, to enable the petitioner to pay the liability in equated monthly instalments as stated below.

(ii) The petitioner is permitted to pay the overdue amount as stated above with future interest and cost to the second respondent – Company – in twelve equated monthly instalments commencing from 18.8.2023 along with regular EMIs.

(iii) Needless to mention, if the petitioner commits default in any of the conditions ordered above, the petitioner would lose the benefit of this judgment and the respondents 2 and 3 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.

