(2023) 07 KL CK 0110

In the High Court Of Kerala

Case No : Writ Petition (C) No. 20434 Of 2023

Seenath P K. — APPELLANT

Vs

Union Bank Of India — RESPONDENT

Date of Decision : 13-07-2023

Acts Referred:

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest 2002 — Section 13(2)

Citation : (2023) 07 KL CK 0110

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

Bench : Single Bench

Advocate : M.Muhammed Shafi, T.Rasini, Swathy A.P., A S P Kurup

Final Decision : Disposed Of

Judgement

C.S.Dias, J

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

2. The petitioner had availed financial assistance from the respondent – Bank - by creating an equitable mortgage. Due to unforeseen circumstances, the petitioner could not pay the instalments on time. The respondent 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 petitioner is ready to pay the overdue amount in equated monthly instalments. Hence, the writ petition.

3. Heard; Sri. Muhammed Shafi M., the learned counsel appearing for the petitioner and Sri.A.S.P.Kurup, the learned counsel appearing for the respondent.

4. Sri.A.S.P.Kurup, on instructions, submitted that Exts.P1 and P2 are only notices issued under Section 13(2) of the Act. It would be up to the petitioner to

approach the Bank and submit a concrete proposal to avail the One Time Settlement Scheme (OTS) and pay off the outstanding amount or regularise the loan account. The said submission is recorded.

5. Having considered the pleadings and materials on record, and after adverting to the rival submissions made across the Bar, I am of the view that a quietus can be given to the litigation, by permitting the petitioner to approach the Bank with a concrete proposal.

Resultantly, I dispose of the writ petition in the following manner:

(i) The petitioner is at liberty to submit a concrete proposal to the respondent Bank either to avail the OTS facility or regularise the loan account, within a period of two weeks from the date of receipt of a certified copy of the judgment.

(ii) If the said proposal is submitted, the same shall be considered by the respondent, in accordance with law and as expeditiously as possible, at any rate, within a period of one month from the date of receipt of the proposal, after affording the petitioner an opportunity of being heard.

(iii) Until such time orders are passed on the proposal submitted by the petitioner, the respondent is directed to defer further proceedings as against the secured asset.