(2023) 07 KL CK 0203

In the High Court Of Kerala

Case No : Writ Petition (C) No. 21889 Of 2023

Shaji Suresh — APPELLANT

Vs

Indian Bank — RESPONDENT

Date of Decision : 26-07-2023

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2023) 07 KL CK 0203

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : Basil Chandy Vavachan, Georgie Simon, Charutha Bhaiju, Chandhana Bhaiju, Basil Sajan, Fathim Navas, Basil Scaria, S Easwaran

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 installments and regularise the loan account.

2. The petitioner's case is that he had availed a housing loan from the respondent bank, by creating an equitable mortgage. Due to reasons beyond his control, he could not pay the installments on time. The bank has now proceeded against the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, 'Act') and is threatening to take physical possession of the secured asset. The petitioner is willing to pay the overdue amount in installments and regularise the loan account. Hence, the Writ Petition.

3. Heard; Sri. Basil Chandy Vavachan, the learned Counsel appearing for the petitioner and Sri.S.Easwaran, the learned Counsel appearing for the respondent.

4. Sri.S.Easwaran, on instructions, submitted that the overdue amount as on today is Rs.1,75,000/-. The respondent is willing to permit the petitioner to pay

the overdue amount in six equated monthly installments. The said submission is recorded.

5. The learned Counsel appearing for the petitioner submitted that the petitioner may be granted atleast twelve equated monthly installments to pay off the overdue amount.

6. Having considered the pleadings and materials on record and the submission made by the learned counsel appearing for the parties; the broad consensus arrived at between the parties and to provide the petitioner one last opportunity to pay off the loan amount, I am inclined to exercise the powers of this Court under Article 226 of the Constitution of India and dispose of the writ petition.

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

(i) The respondent is directed to defer further proceedings pursuant to Ext.P1, to enable the petitioner to pay the overdue amount in instalments.

(ii) The petitioner is permitted to pay the overdue amount as stated above with future interest and cost to the respondent bank in ten equated monthly installments commencing from 26.08.2023 along with regular EMIs.

(iii) Needless to mention, if the petitioner defaults in payment of any one of the installments as directed above, the petitioner would lose the benefit of this judgment and the respondent would be at liberty to revive the recovery proceedings from the stage it presently stands, and bring it to its logical conclusion in accordance with law.

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