

(2023) 08 KL CK 0091

In the High Court Of Kerala

Case No : Writ Petition (C) No. 24961 Of 2023

Shaji.O.E.

APPELLANT

Vs

Vice President & Authorised Officer under SARFAESI Act

RESPONDENT

Date of Decision : 04-08-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 08 KL CK 0091

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : P.K.Aboobacker, Ashish K John

Final Decision : Disposed Of

Judgement

C.S.Dias, J

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

2. The petitioners' case is that, they had availed financial assistance from the second respondent – Bank –to construct a house and also for personal needs. Due to Covid-19 pandemic, they could not pay the instalments on time. The respondents have now proceeded against the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, 'Act') and is threatening to take physical possession of the property. The petitioners are ready to pay the overdue amount in equated monthly instalments and regularise the loan account. Hence, the writ petition.

3. Heard; Sri.Aboobacker P.K., the learned counsel appearing for the petitioners and Sri.Ashish K. John, the learned counsel appearing for the respondents.

4. Sri.Sri.Ashish K John, on instructions, submitted that the petitioners had availed a housing loan for Rs.50,00,000/- and a personal loan for Rs.5,00,000/-.

The overdue amount, as on today, in respect of two loans is Rs.4,04,521/-. The respondents are willing to permit the petitioners to pay off the overdue amount in ten equated monthly instalments. The said submission is recorded.

5. Sri. P.K.Aboobacker, submitted that as the tenure of the housing loan is till 2032, the petitioner may be granted at least twelve 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 petitioners 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 are directed to defer further coercive proceedings pursuant to Exts.P1 and P2, to enable the petitioners to pay the overdue amount 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 – Bank – in twelve equated monthly instalments commencing from 4.9.2023 along with regular EMIs.

(iii) Needless to mention, if the petitioners commit default of the condition ordered above, the petitioners would lose the benefit of this judgment and the respondents 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.