(2023) 07 KL CK 0097

In the High Court Of Kerala

Case No : Writ Petition (C) No. 22693 Of 2023

Shinoy.K.S — APPELLANT

Vs

HDB Financial Services Limited — RESPONDENT

Date of Decision : 12-07-2023

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2023) 07 KL CK 0097

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

Bench : Single Bench

Advocate : K.R.Avinash, Abdul Raoof Pallipath, E.Mohammed Shafi, Prajit Ratnakaran, P.Paulochan Antony

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 outstanding amount in equated monthly instalments and close the loan account.

2. The petitioners had availed financial assistance from the first respondent – financial institution – by creating an equitable mortgage. Due to unforeseen circumstances, the petitioners could not pay the instalments on time. The respondents have initiated proceedings against the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, ‘Act’). The petitioners are ready to pay the outstanding amount in equated monthly instalments. Hence, the writ petition.

3. Heard; Sri.Avinash K.R., the learned counsel appearing for the petitioners and Sri.Paulochan Antony, the learned counsel appearing for the respondents.

4. Sri.Paulochan Antony, on instructions, submitted that, as on today, the outstanding amount is Rs.26,99,288/-. The respondents are willing to permit the

petitioners to pay off the outstanding amount in ten equated monthly instalments. The said submission is recorded.

5. The learned counsel appearing for the petitioners submitted that the petitioners are ready to accept the above offer.

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 Ext.P1 to enable the petitioners to pay the outstanding amount in equated monthly instalments as stated below.

(ii) The petitioners are permitted to pay the outstanding amount as stated above with future interest and cost to the first respondent financial institution in ten equated monthly instalments commencing from 12.08.2023.

(iii) Needless to mention, if the petitioners commit default in the condition ordered above, the petitioner 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.