

(2023) 08 KL CK 0067

In the High Court Of Kerala

Case No : Writ Petition (C) No. 25691 Of 2023

Shoba Gopinath

APPELLANT

Vs

Authorized Officer Housing Development Finance Corporation
Limited (HDFC)

RESPONDENT

Date of Decision : 07-08-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 08 KL CK 0067

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

Bench : Single Bench

Advocate : R.Divakaran, S.Ambily

Final Decision : Dismissed

Judgement

C. S. Dias, J

1. The writ petition is filed to direct the respondents to permit the petitioner to pay the outstanding amount in instalment and close the loan account.
2. The petitioner's case is that, she had availed financial assistance from the second respondent bank by creating an equitable mortgage by deposit of title deeds. Due to Covid-19 pandemic and failure in her business, she could not pay the instalments on time. The first respondent has now issued Ext.P1 sale notice and is threatening to sell the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, 'Act'). The petitioner is willing to pay the outstanding amount in instalments and close the loan account. Hence, the writ petition.
3. Heard; Sri.C.A.Chacko, the learned Counsel appearing for the petitioner and Sri.M.Gopikrishnan Nambiar, the learned Counsel appearing for the respondents.
4. Sri.M.Gopikrishnan Nambiar, on instructions, submitted that the petitioner had availed three loans from the second respondent bank. The total outstanding in

respect of the three loans comes to Rs.1,78,95,257/-. The respondents are willing to permit the petitioner to pay the above outstanding amount in ten equated monthly instalments. The said submission is recorded.

5. The learned Counsel appearing for the petitioner submitted that the petitioner is 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 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 are directed to defer further coercive proceedings pursuant to Exts.P1 and P2 to enable the petitioner to pay the outstanding amount in equated monthly instalments as stated below.

(ii) The petitioner are permitted to pay the outstanding amount as stated above with future interest and cost to the second respondent – Bank – in ten equated monthly instalments commencing from 07.09.2023.

(iii) Needless to mention, if the petitioner commits 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.