
(2024) 11 KL CK 0100
In the High Court Of Kerala
Case No : Writ Petition (C) No. 39843 Of 2024

Sivanandan M.A

APPELLANT

Vs

Varadium Service Co Operative Bank Ltd. No. 575

RESPONDENT

Date of Decision : 11-11-2024

Acts Referred:

Citation : (2024) 11 KL CK 0100

Hon'ble Judges : N.Nagaresh, J

Bench : Single Bench

Advocate : Lindons C.Davis, E.U.Dhanya, N.S.Shamila, Chinju P. Joyies, Chacko C A, Resmi Thomas

Final Decision : Disposed Of

Judgement

N.Nagaresh, J

1. The petitioner has approached this Court aggrieved by the coercive proceedings for recovery of financial advance made by the Varadium Service Co-operative Bank Limited to the petitioner, invoking the provisions of the Kerala Co-operative Societies Act, 1969.
2. The Bank paid ₹ 5 lakhs to the petitioner as loan. The petitioner states that though the petitioner made remittances promptly during the initial repayment period of the financial advance, he could not pay the instalments promptly later. The repayment of loan fell into arrears later. It happened due to reasons beyond the control of the petitioner.
3. Though the petitioner requested the Bank to permit the petitioner to repay the overdue amounts in easy monthly instalments, the Bank authorities were not yielding. The authorities, instead, started coercive proceedings, invoking the provisions of the Kerala Co-operative Societies Act, 1969 and issued Ext.P1 notice.
4. The petitioner states that he is still in a position to clear the overdue amounts

towards the loan, if sufficient time is given to clear the dues in easy monthly instalments. If the Bank is permitted to continue with the coercive proceedings and auction the secured assets provided by the petitioner, he will be put to untold hardship and loss.

5. Standing Counsel entered appearance on behalf of the Bank and denied all the statements made by the petitioner. On behalf of the Bank, it is submitted that the petitioner committed default in repaying the loan.

6. The Bank repeatedly reminded the petitioner and required him to clear the dues. The petitioner deliberately omitted to do so. In the circumstances, the Bank had no other go than to proceed against the petitioner invoking the provisions of the Kerala Co-operative Societies Act, 1969. The impugned Ext.P1 was issued in these circumstances. The petitioner has not advanced any legal reasons to thwart the coercive proceedings initiated by the Bank.

7. The Standing Counsel, however, submitted that if the petitioner is ready and willing to make a substantial payment soon and remit the balance outstanding amount immediately thereafter, a short breathing time can be granted to the petitioner to clear the dues. The Standing Counsel submitted that the outstanding amount due to the Bank from the petitioner as on 05.11.2024 is 6,06,935/-.

8. I have heard the counsel for the petitioner and the Standing Counsel representing the Bank.

9. The specific case of the petitioner is that the petitioner has been making the repayment and maintaining the loan account initially. The default in repayment of the loan occurred lately due to reasons beyond the control of the petitioner. The petitioner has provided substantial security which will safeguard the interest of the Bank.

10. In the facts and circumstances of the case, I am inclined to dispose of the writ petition giving a short and reasonable time to the petitioner to clear off the liability.

11. The writ petition is therefore disposed of with the following directions:

(i) The petitioner shall remit the outstanding amount of 6,06,935/- in eight consecutive and equal monthly instalments along with accruing interest and other Bank charges, if any. First of such instalments shall be paid on or before 11.12.2024.

(ii) If the petitioner commits single default in making payments as directed above, the Bank will be at liberty to continue with the coercive proceedings against the petitioner in accordance with law.

(iii) If the petitioner makes payments as directed above, coercive proceedings, if any, against the petitioner shall stand deferred.