
(2023) 06 KL CK 0343
In the High Court Of Kerala
Case No : Writ Petition (C) No.15054 Of 2023

Sudheer K.K

APPELLANT

Vs

Authorized Officer South Indian Bank Limited

RESPONDENT

Date of Decision : 22-06-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 06 KL CK 0343

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

Bench : Single Bench

Advocate : M.Anuroop, M.Devesh, Murshid Ali M., Sunil Shanker, P.A. Augustine

Final Decision : Dismissed

Judgement

C.S Dias, J

1. The writ petition is filed to direct the respondents to permit the petitioners to pay off the outstanding amount in instalments.
2. The petitioners' case is that, they had availed financial assistance from the second respondent – Bank by creating an equitable mortgage. Due to reasons beyond their control, they could not pay the instalments on time. The Bank has initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(in short, 'Act'), and is proceeding against the secured asset. The petitioners are still ready to pay off the outstanding amount in instalments. Hence, the writ petition.
3. Heard; Sri. M. Anuroop, the learned counsel appearing for the petitioners and Sri. P.A. Augustine, the learned Standing Counsel appearing for the respondents.
4. Sri. P.A. Augustine, on instructions, submitted that, on the proposal submitted by the petitioners, the respondents had permitted the petitioners to pay the outstanding amount under the One Time Settlement(OTS); but they did not avail the same. Now, the respondents have preferred O.A.No.227/2021 before the

Debt Recovery Tribunal-1, Ernakulam. Hence, the writ petition may be dismissed, without prejudice to the rights of the petitioners to work out their statutory remedies.

5. The Hon'ble Supreme Court in *South Indian Bank Ltd vs. Naveen Mathew Philip* [2023 LiveLaw (SC) 320], after advertng to a myriad of earlier judicial pronouncements rendered under the Act, has categorically declared that High Courts shall not, unless in extra ordinary circumstances, interfere with proceedings initiated under the Act, in writ proceedings under Article 226 of the Constitution of India.

6. Having considered the pleadings and materials on record and taking note of the fact that the respondents had already offered OTS and now they have preferred O.A.No.227/2021 before the Tribunal, I do not find any extra-ordinary circumstances made out in the writ petition to exercise the plenary powers of this Court under Article 226 of the Constitution of India to entertain the writ petition. Nonetheless, it would be up to the petitioners to work out their statutory remedies, in accordance with law.

Resultantly, the writ petition is dismissed, without prejudice to the right of the petitioners to work out their statutory remedies, in accordance with law.