(2023) 05 KL CK 0181

In the High Court Of Kerala

Case No : Writ Petition (C) No. 16558 Of 2023

Sunilkumar.S APPELLANT

Vs

HDFC Limited RESPONDENT

Date of Decision : 24-05-2023

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2023) 05 KL CK 0181

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : B.Ananthu, S.Ambily

Final Decision : Disposed Of

Judgement

C.S.Dias, J

1. The writ petition is filed to direct the respondents 1 and 2 to permit the petitioner to pay the overdue amount in 20 equated monthly installments and regularize the loan account.

2. The petitioner's case is that, he had availed a housing loan from the first respondent bank by creating an equitable mortgage. Due to the reasons beyond his control, he could not repay the loan amount. The respondents have now issued Ext.P1 demand notice and Ext.P2 possession notice and are threatening to take the physical possession of the property on 25.5.2023. The petitioner is prepared to pay off the loan amount in equated monthly installments. Hence, the writ petition.

3. Heard; Sri.B.Ananthu, the learned counsel appearing for the petitioner and Smt.S.Ambily, the learned counsel appearing for the respondents.

4. Smt. S. Ambily, the learned counsel appearing for the respondents, on instructions, submitted that as on today the overdue amount is Rs.5,30,064/- Nevertheless, the first respondent is ready to accept the offer made by the

petitioner, provided he pays a substantial amount forthwith and pays the balance overdue amount in six equated monthly installments. The said submission is recorded. The above offer is accepted by the learned counsel appearing for the petitioner.

5. Having considered the pleadings and materials on record, and in the light of the submissions made by the learned counsel appearing for both sides, to provide the petitioner one last opportunity to pay off the loan amount, I am inclined to exercise the powers of this Court under Article 226 of the Constitution of India and dispose of the writ petition.

Resultantly, the writ petition is disposed of in the following manner:-

(i) The respondents are directed to defer further coercive proceedings pursuant to Exts. P1 to P3, to enable the petitioner to discharge the loan amount.

(ii) The respondents shall accept the amounts from the petitioner as ordered herein below.

(iii) The petitioner shall deposit an amount of Rs.1,00,000/- (Rupees one lakh only) on or before 2.6.2023.

(iv) The petitioner shall pay the balance overdue amount with interest and cost along with the regular EMIs in six equated monthly installments commencing from 2.8.2023.

(v) Needless to mention, if the petitioner commits default in any one of the installments, the petitioner would loose the benefit of this judgment and the respondents would be at liberty to proceed with the recovery proceedings from the stage presently stands.

The writ petition is ordered accordingly.

