

(2023) 07 KL CK 0132

In the High Court Of Kerala

Case No : Writ Petition (C) No. 23573 Of 2023

Suresh Kumar K.R

APPELLANT

Vs

Authorized Officer/Chief Manager, The South Indian Bank Ltd

RESPONDENT

Date of Decision : 20-07-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 07 KL CK 0132

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

Bench : Single Bench

Advocate : V.C.Rajesh, K.J.Gladis, C Ajith Kumar

Final Decision : Dismissed

Judgement

C.S.Dias, J

1. The writ petition is filed to direct the respondent to permit the petitioner to pay off the overdue amount in instalments and regularise the loan account.
2. The petitioner's case is that he had availed housing loan from the respondent – Bank in the year 2017, by creating an equitable mortgage by deposit of title deeds. Due to reasons beyond his control, he could not pay the instalments on time. The respondent has proceeded against the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(in short, 'Act') and is threatening to take possession of the same. The petitioner is willing to pay off the overdue amount in instalments and regularise the loan account. Hence, the writ petition.
3. Heard; Sri.V.C.Rajesh, the learned counsel appearing for the petitioner and Sri.C Ajith Kumar, the learned counsel appearing for the respondent.
4. Sri. C Ajith Kumar, on instructions, submitted that the respondent has already instituted C.S.No.7/2023 before the Commercial Court, Pathanamthitta. The respondent has taken symbolic possession of the property on 03.11.2022. The

proceedings presently stands posted for sale on 25.07.2023. Therefore, the respondent is not willing, at this stage, to accept the prayer of the petitioner to pay the overdue amounts in instalments. Hence, the petitioner may be relegated to exhaust the statutory remedies.

5. The Hon'ble Supreme Court in *South Indian Bank Ltd vs. Naveen Mathew Philip* [2023 LiveLaw (SC) 320], after adverting 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 after appreciating the rival submissions made across the Bar, I do not find any extra-ordinary circumstances to entertain the writ petition by exercising the plenary powers of this Court under Article 226 of the Constitution of India. Nonetheless, it would be up to the petitioner to work out his statutory remedies, in accordance with law.

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