

(2023) 07 KL CK 0231

In the High Court Of Kerala

Case No : Writ Petition (C) No. 24534 Of 2023

Vijayan. P.T.

APPELLANT

Vs

Calicut Co Operative Urban Bank Limited

RESPONDENT

Date of Decision : 27-07-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 07 KL CK 0231

Hon'ble Judges : C.S Dias, J

Bench : Single Bench

Advocate : R.Ranjith, A.P.Nidhin Kumar, Devaprasanth P.J

Final Decision : Disposed Of

Judgement

C.S Dias, J

1. The writ petition is filed to direct the respondent to permit the petitioner to pay the overdue amount in equated monthly instalments and regularise the loan account.

2. The petitioner had availed financial assistance from the respondent – Bank – by creating an equitable mortgage. Due to unforeseen circumstances, he could not pay the instalments on time. The respondent has initiated proceedings against the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner is ready to pay the overdue amount in equated monthly instalments. Hence, the writ petition.

3. Heard; Sri. R.Ranjith (Manjeri), the learned counsel appearing for the petitioner and Sri. Devaprasanth P.J., the learned counsel appearing for the respondent.

4. Sri. Devaprasanth P.J., on instructions, submitted that the petitioner had availed the loan in the year 2017. The tenure of the loan is till July 2024. The

overdue amount as on today is Rs.5,58,270/-. The respondent is willing to permit the petitioner to pay the overdue amount in 10 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 respondent is directed to defer further proceedings pursuant to Exts P1 & P2 notices, to enable the petitioner to pay off the overdue amount in instalments.

(ii) The petitioner is permitted to pay the overdue amount as stated above with future interest and cost to the respondent – Bank in 10 equated monthly instalments commencing from 27.08.2023 along with regular EMIs.

(iii) Needless to mention, if the petitioner commits default in respect of any of the conditions ordered above, he will lose the benefit of this judgment and the respondent 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.