Prasanth G Vs. Assistant Manager, S.B.T

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Court : Kerala

Decided On : Feb-21-2014

Judge : Honourable Mr.Justice P.R.Ramachandra Menon

Appellant : Prasanth G

Respondent : Assistant Manager, S.B.T

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON FRIDAY, THE21T DAY OF FEBRUARY20142ND PHALGUNA, 1935 WP(C).No. 2959 of 2014 (T) --------------------------- PETITIONER(S): -------------------------- 1. PRASANTH.G,AGED36YEARS,S/O GOPINATHAN, GOWRI NANDHANAM, EAST KADUNGALLOOR, U.C.COLLEGE P.O, ALUVA, ERNAKULAM DISTRICT.

2. ANU KRISHNA,D/O KRISHNAKUTTY, GOWRI NANDHANAM, EAST KADUNGALLOOR, U.C.COLLEGE P.O, ALUVA, ERNAKULAM DISTRICT. BY ADV. SRI.K.S.RAJEEV (ALUVA) RESPONDENT(S): ---------------------------- 1. ASSISTANT MANAGER, STATE BANK OF TRAVANCORE (ASSOCIATE OF STATE BANK OF INDIA), PYNUMMOOTTIL TOWERS, THIRUVALLA, MAVELLIKKARA ROAD, MANNAR P.O, ALAPPUZHA DISTRICT -689 622 2. AUTHORIZED OFFICER, STATE BANK OF TRAVANCORE, MANNAR, ALAPPUZHA DISTRICT- 689 622 3. KRISHNANKUTTY, P.B NO.9351, BETTERWAY MAT AND ELE TRADING, ABUDABI, UAE. R1 & R2 BY

SRI.SATHISH NINAN,SC,SBT SRI.SANTHOSH MATHEW THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON2102-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: sts WP(C).No. 2959 of 2014 (T) --------------------------------------- APPENDIX PETITIONER(S)' EXHIBITS ------------------------------------ EXHIBIT P1 TRUE COPY OF THE NOTICE ISSUED UNDER SECTION132) OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND SECUTIRY INTEREST ACT EXHIBIT P2 TRUE COPY OF THE LEGAL NOTICE ISSUED BY THE ADVOCATE COMMISSIONER EXHIBIT P3 TRUE COPY OF THE MEDICAL CERTIFICATE RESPONDENT(S)' EXHIBITS & ANNEXURES: ANNEX R1(A) TRUE COPY OF THE

JUDGMENT
IN WP(C)NO.30289/12 OF THIS HONOURABLE COURT. /TRUE COPY/ P.S.TO.JUDGE sts P.R. RAMACHANDRA MENON, J.

.... W.P.(C)No.2959 OF2014... Dated this the 21st February, 2014

JUDGMENT

The petitioners had availed a 'home loan' of Rs,15,00,000/- and a 'suvidha loan' of Rs.4,00,000/- from the first respondent Bank/State Bank of Travancore in the year 2007 and 2008 respectively, mortgaging the property in dispute having an extent of 2.11 Ares of land comprised in Sy.No.238/1A/2 in block No.1 in Alangad Furka of Kadungallur Village and a two storied building therein. Since the repayment was not effected on time, the Bank proceeded with steps under the SARFAESI Act, which in turn is under challenge in this writ petition.

2. The case of the petitioners is that because of some unforeseen circumstances, they could not effect repayment of the loan account on time and that the default occurred was not because of any wilful laches or deliberate negligence. Despite all the adverse circumstances, the learned Counsel for the petitioners submits that the petitioners are ready and willing to clear the entire defaulted arrears, so as to have the loan accounts regularised. W.P.(C)No.2959 OF20142 3. The learned

Standing Counsel for the respondent Bank submits, on instruction, that the tenure of the Cash Credit Facility is already over and that the outstanding liability under the said loan is around Rs.1.50 lakhs, as on today. In respect of the Term loan, it is stated that the outstanding liability is around Rs.15.45 lakhs, out of which a sum of Rs. 4 lakhs is overdue, towards defaulted installments and that, unless the petitioner clear the 'overdue amount' in respect of the term loan and completely clear the 'Cash Credit Facility', the request of the petitioners to have the term loan regularised is not liable to be entertained.

4. The learned Counsel for the petitioners submits that the petitioners are ready and willing to clear the Cash Credit Facility and also the 'overdue' amount in respect of the Term loan.

5. After hearing both the sides, the writ petition is disposed of, directing the petitioners to clear the 'overdue' amount in respect of the Term loan and also the entire liability under the Cash Credit Facility by way of '4' equal monthly installments, the first of which shall be effected on or before 28.02.2014 , to be followed by similar three more installments W.P.(C)No.2959 OF20143 to be effected on or before the last working day of the succeeding months. This will be in addition to the liability of the petitioners to remit the regular monthly installments in respect of the Term loan. Subject to the above, the Term loan account will stand regulairsed and the revenue recovery proceedings now stated as being pursued against the petitioners and their property shall be kept in abeyance. It is made clear that, if any default is committed by the petitioners in remitting any of the four installments ,as above or if any two consecutive defaults are made in respect of the regular E.M.Is with respect to the Term Loan, the respondent Bank will be at liberty to proceed with further steps from the stage where it stands now, for realisation of the amount in a lump. The Writ Petition is disposed of as above. P.R.RAMACHANDRA MENON JUDGE lk