

Kavitha Vs. Authorised Officer

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Court : Kerala

Decided On : Jun-27-2014

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Kavitha

Respondent : Authorised Officer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN FRIDAY, THE 27TH DAY OF JUNE 2014 6TH ASHADHA, 1936` WP(C).No. 4069 of 2014 (G)

----- PETITIONERS : ----- 1. KAVITHA D/O.GOPINATHA PILLAI, 'GOKULAM', INCHAVILA.P.O., KOLLAM, PIN-691601.

2. T.KALAVATHY AMMA, W/O.GOPINATHA PILLAI, 'GOKULAM', INCHAVILA.P.O., KOLLAM, PIN-691601. BY ADVS.SRI.M.P.MADHAVANKUTTY SRI.GOKUL DAS V.V.H. RESPONDENTS : ----- 1. AUTHORISED OFFICER, STATE BANK OF TRAVANCORE, STRESSED ASSETS RESOLUTION CENTRE, ARPAN TOWERS, KADAPPAKADA, KOLLAM, PIN-691008.

2. STATE BANK OF TRAVANCORE, REPRESENTED BY ITS CHIEF MANAGER, STRESSED ASSETS RESOLUTION CENTRE, ARPAN TOWERS, KADAPPAKADA, KOLLAM, PIN-691008.

3. THE BRANCH/CHIEF MANAGER, STATE BANK OF TRAVANCORE, THRIKKADAVOOR BRANCH, P.B.NO.1, NELLIYIL ROAD BUILDING, THRIKKADAVOOR.P.O., KOLLAM, PIN-691601. R1 TO R3 BY ADV. SRI.R.S.KALKURA THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/06-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: BP WP(C).NO. 4069 OF 2014(G) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- EXT.P1: COPY OF THE NOTICE UNDER SECTION 13(2) OF THE SARFAESI ACT DATED 05/02/2013 BEARING NUMBER DGM/RQASMECCC/NPA/SUV. EXT.P2: COPY OF THE COMMUNICATION DATED 21/06/2013 BEARING NUMBER SARC/KLM/ EXT.P3: COPY OF THE LETTER DATED 07/12/2013 BEARING NUMBER AGM1KLM/74/3 ISSUED BY THE 2D RESPONDENT EXT.P4: COPY OF THE REPRESENTATION SUBMITTED BY THE 1ST PETITIONER. RESPONDENT(S)' EXHIBITS : EXT.R1(A): COPY OF THE LOAN SANCTION LETTER DT 11/11/2003, DULY ACKNOWLEDGED BY THE PETITIONERS AND GUARANTOR TO THE LOAN. EXT.R1(B): COPY OF THE COMPUTATION STATEMENT OF THE DUES INCLUDING ACCRUED INTEREST AND OTHER CHARGES/EXPENSES FROM 6/2/2013 AS ON 24/2/2014. EXT.R1(C): COPY OF THE GUIDELINES FOR PROVIDING RELIEF ON INTEREST OUTSTANDING FOR ALL EDUCATIONAL LOANS SANCTIONED AVAILED UP TO 31/3/2009 AND OUTSTANDING AS ON 31/12/2013. //TRUE COPY// P.A. TO JUDGE BP K.VINOD CHANDRAN, J ----- W.P.(C).No. 4069 of 2014 ----- Dated 27th June, 2014 -----

JUDGMENT

Petitioners are daughter and mother who are aggrieved by the recovery proceedings initiated for satisfaction of an education loan availed of, for the education of the 1st petitioner. The contention of the petitioners is that, substantial amounts have been paid to the loan account and now a Scheme is available by which, the Central Government has granted interest subsidy for education loans. In such circumstances, petitioners contend that the securitization proceedings issued under Section 13(2) as evidenced by Ext.P1 cannot be proceeded with at present. Petitioners also contend that the 1st petitioner despite having completed the professional course, has not obtained any employment till now.

WP(C).4069/14 2 2. The learned counsel for the respondent Bank however, submits that an amount of Rs.5,41,000/- was availed in the year 2003 and repayment was to commence only from the year 2008. The period of the loan itself stood expired in 2013 and as on 24.02.2014, the total arrears due would be Rs.8,35,997/-. It is also submitted that as per the Scheme, which has been produced by the Bank as Ext.R1(c) along with a counter affidavit, the petitioners, as per the computation made by the Bank, are eligible to subsidy of Rs.1,02,098/-. The Bank has also forwarded the proposal to the Central Government which is the ultimate authority to decide on the exact amounts to be granted as subsidy. In such circumstances, the respondents contend that the petitioners in any event, are liable to make good the balance outstanding in the loan account. WP(C).4069/14 3 3. However, considering the impecunious circumstances pleaded by the petitioners as also the discrepancy in the computation, it is directed that the Bank shall keep the recovery proceedings in abeyance on compliance of the following directions.

4. Petitioners shall produce the certified copy of this judgment before the Bank within a period of one week from today and the respondent Bank shall issue a statement of accounts indicating the interest subsidy applied for as also the balance dues outstanding. On the petitioners making a request, the respondent Bank shall also grant ten monthly instalments to pay off the balance amounts which shall necessarily start on any date specified by the Bank in August, 2014. The interest subsidy applied for by the petitioners shall not, at present, be demanded by the Bank from them. WP(C).4069/14 4 However, the same shall depend upon the relief granted by the Central Government and if there is any reduction, petitioners shall be liable to make good such amounts. Needless to say, if any amounts, more than that applied for by the Bank, is granted as interest subsidy, then, such excess amounts shall also be credited to the petitioners, if they have satisfied the entire dues as directed by this Court. With respect to the instalments, if two consecutive defaults are committed, the respondent Bank shall have authority to revive the recovery proceedings from the stage at which it has been kept in abeyance by this Court, as indicated in Ext.P1. Writ petition disposed of. Sd/- K.VINOD CHANDRAN, Judge MrCs //True Copy//