Shijitha P.K., vs the Authorised Officer, Encore Asset Reconstruction Company India Private Limited,

Shijitha P.K., vs the Authorised Officer, Encore Asset Reconstruction Company India Private Limited,

SooperKanoon Citation : sooperkanoon.com/1280413

Court : Kerala

Decided On : Apr-03-2025

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : WP(C)/13078/2025

Appellant : Shijitha P.K.,

Respondent : The Authorised Officer, Encore Asset Reconstruction Company India Private Limited,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. THURSDAY, THE 3RD DAY OF APRIL 2025 / 13TH CHAITHRA, 1947 PETITIONERS: 1 SHIJITHA P.K., AGED 36 YEARS D/O. KRISHNANKUTTY AND W/O. SURESH, PALAPPALLIYIL HOUSE, CHERAYA P.O., PARASSERY VILLAGE, PALAKKAD TALUK, PALAKKAD DISTRICT, PIN - 678631 2 THANKAMMA, AGED 60 YEARS W/O. KRISHNANKUTTY, PALAPPALLIYIL HOUSE, CHERAYA P.O., PARASSERY VILLAGE, PALAKKAD TALUK, PALAKKAD

DISTRICT, PIN - 678631 BY ADVS. ANEESH JAMES JIJO THOMAS M.D.BEENA RESPONDENT/S: 1 THE AUTHORISED OFFICER, ENCORE ASSET RECONSTRUCTION COMPANY INDIA PRIVATE LIMITED, CADDIE COMMERCIAL TOWER, REGUS BUSINESS CENTRE, 5TH FLOOR, AEROCITY (DIAL), NEW DELHI, PIN - 110037

2 ENCORE ASSET RECONSTRUCTION COMPANY INDIA PRIVATE LIMITED, REPRESENTED BY ITS DIRECTOR, HAVING ITS OFFICE AT CADDIE COMMERCIAL TOWER, REGUS BUSINESS CENTRE, 5TH FLOOR, AEROCITY (DIAL), NEW DELHI, PIN - 110037 3 MANAPPURAM HOME FINANCE LIMITED, REGISTERED OFFICE AT IV/470A (OLD) /W/638A (NEW), MANAPPURAM HOUSE, VALAPPD, THRISSUR DISTRICT, HAVING ITS BRANCH AT SULTHANPETT, PALAKKAD P.O., PALAKKAD DISTRICT, REPRESENTED BY ITS BRANCH MANAGER, PIN - BY ADVS. C.HARIKUMAR SANDRA SUNNY(K/926/2020) ARUN KUMAR M.A(K/1197/2021) FARAH JYOTHI PRADEEP(K/1240/2023) THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioners have approached this Court challenging proceedings under the SARFAESI Act which have been initiated by the respondent bank for recovery of the amounts due from the petitioners.

2. During the course of hearing, petitioners have confined the relief to an opportunity for repaying the overdue amount in instalments and to obtain regularisation of the loan account.

3. It is submitted on behalf of the respondent bank that the

petitioners committed default in repayment of a housing loan and the total overdue amount as on 28.03.2025 is Rs.2,01,155/-. It is further submitted that though proceedings for recovery have been initiated, as a matter of indulgence, the respondent bank is willing to accept repayment of the overdue amount in limited instalments and regularise the loan account.

4. Having regard to the circumstances of the case and the

submissions made as recorded above, I am of the view that the petitioners can be granted an opportunity to repay the total overdue in twelve equal monthly instalments, the first of which shall be paid on or before 30.04.2025 and the subsequent instalments shall be paid on the 30th day of every succeeding months and thereafter, if the amount so directed is repaid within the time as directed above, to have the loan account regularised.

5. Accordingly, there will be a direction to the respondent bank to

accept repayment of the entire overdue amount of Rs.2,01,155/- along with any accrued interest, costs and charges from the petitioners and regularise the loan account of the petitioner in the following manner: i. The petitioners shall pay the overdue amount of Rs.2,01,155/- along with any accrued interest, costs and charges in twelve equal monthly instalments; ii. The first instalment shall be paid on or before 30.04.2025 and the subsequent instalments shall be paid on or before the 30th day of every succeeding months;

iii. petitioners shall continue to pay the regular EMIs/instalments along with the instalments directed above; iv. In the event of default of any one instalment, the respondent bank shall be entitled to proceed in accordance with the law; v. In order to enable the petitioners to repay the entire amounts, all coercive proceedings shall be kept in abeyance.

The writ petition is disposed of as above. sd/- GOPINATH P. JUDGE Nsd APPENDIX OF WP(C) 13078/2025 PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE LOAN DISBURSEMENT LETTER DATED 29.09.2019 DETAILING THE HOME LOAN TOGETHER WITH THE REPAYMENT SCHEDULE ISSUED BY THE 3RD RESPONDENT

Exhibit P2 A TRUE COPY OF THE STATEMENT OF THE LOAN ACCOUNT FOR THE PERIOD FROM 29.09.2019 TO 18.05.2024 Exhibit P3 . A TRUE COPY OF

THE CORONARY ANGIOGRAM REPORT DATED 19.08.2016 OF THE 1ST PETITIONERS FATHER ISSUED FROM DISTRICT HOSPITAL, PALAKKAD Exhibit P4 A TRUE COPY OF THE CORONARY ANGIOGRAM REPORT DATED 10.10.2016 OF THE 1ST PETITIONERS FATHER ISSUED FROM DISTRICT HOSPITAL, PALAKKAD Exhibit P5 A TRUE COPY OF THE DEATH CERTIFICATE OF THE SAID KRISHNANKUTTY DATED 15.05.2024 ISSUED FROM KONGAD GRAMA PANCHAYATH Exhibit P6 A TRUE COPY OF THE LETTER DATED 20.10.2023 ISSUED BY THE 3RD RESPONDENT Exhibit P7 A TRUE COPY OF THE NOTICE DATED 23.09.2024 ISSUED BY THE ADVOCATE COMMISSIONER NEHA K. MANI Exhibit P8 . A TRUE COPY OF THE APPLICATION DATED

18.05.2024 FILED BY THE 1ST RESPONDENT IN M.C. NO. 271 OF 2024 ON THE FILES OF THE CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD Exhibit P9 TRUE COPY OF THE SUPPORTING AFFIDAVIT DATED 18.05.2024 FILED BY THE 1ST RESPONDENT IN M.C. NO. 271 OF 2024 ON THE FILES OF THE CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD Exhibit P10 A TRUE COPY OF THE ORDER OF THE CHIEF JUDICIAL MAGISTRATE COURT DATED 13.06.2024 IN M.C. NO. 271 OF 2024 Exhibit P11 . A TRUE COPY OF THE REPRESENTATION DATED 25.03.2025 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 3RD RESPONDENT