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Sudarshanan vs Arbitrator-Cum- Special Sale Officer

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Court : Kerala

Decided On : Feb-27-2024

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : WP(C)/2803/2024

Appellant : Sudarshanan

Respondent : Arbitrator-Cum- Special Sale Officer

Judgement :

W.P.C. No. 2803 of 2024 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V TUESDAY, THE 27TH DAY OF FEBRUARY 2024 / 8TH PHALGUNA, 1945 WP(C) NO. 2803 OF 2024 PETITIONERS: 1 SUDARSHANAN AGED 65 YEARS S/O., CHARUVILAKKADAYIL HOUSE, CHIRAKKARA P.O., KOLLAM DISTRICT, PIN - 691578 2 CHANDRAMATHI AGED 84 YEARS THUNDUVILA HOUSE, CHIRAKKARA P.O., KOLLAM DISTRICT., PIN - 691578 BY ADV MOHAMMED SHAFI.K RESPONDENTS: 1 ARBITRATOR-CUM- SPECIAL SALE OFFICER OFFICE OF THE

ASSISTANT REGISTRAR (GENERAL) CO-OPERATIVE SOCIETIES, KOLLAM DISTRICT, PIN - 691302 2 POOTHAKKULAM SERVICE CO-OPERATIVE BANK LTD.NO.2944, POOTHAKKULAM P.O, KOLLAM DISTRICT, - REPRESENTED BY ITS SECRETARY, PIN - 691302 3 REGISTRAR OF CO-OPERATIVE SOCIETIES JAWAHAR SAHAKARANA BHAVAN, DPI JUNCTION, THYCAUD (PO), THIRUVANANTHAPURAM, PIN - 695014

BY ADVS. ARJUN RAGHAVAN(K/1277/2012) SRI T R HARIKUMAR, SC FOR POOTHAKKULAM SERVICE CO-OPERATIVE BANK THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P.C. No. 2803 of 2024 2

JUDGMENT

The petitioners had availed two loans from the 2nd respondent bank for various amounts in the year 2010. To secure the loan amount, immovable property having an extent of 12 cents was mortgaged. When default was committed, arbitration proceedings were initiated, and an award was obtained. Pursuant to the same, Exts.P1 to P3 have been issued, indicating the initiation of coercive proceedings to recover the amount. This has led the petitioners to approach this Court seeking to quash Exts.P1 and P2 auction notices and for issuance of directions to the respondents to permit the petitioners to settle the amount through manageable installments.

2. The learned Standing Counsel appearing for the 2nd respondent

Bank submits that the total outstanding as of 16.02.2024 due from the petitioner is about Rs.22,84,345/-. It is submitted that the loan was availed in the year 2010 and the tenure ended on 04.10.2020. However, it is submitted that the bank is willing to grant the petitioners an opportunity to clear the outstanding amount. However, he submits that not more than eight installments be granted.

3. Upon careful consideration of the submissions made by both

parties, it is evident that the petitioners owe in excess of Rs.22.84 lakhs to W.P.C. No. 2803 of 2024 3 the 2nd respondent Bank. The respondents, fairly, have agreed to permit the petitioners to settle these debts through a limited number of installments. As a measure of last resort, I am inclined to issue directions to facilitate the petitioners in discharging their financial obligations to the 1st respondent. This approach is deemed necessary to provide a structured pathway for the petitioner to clear off their monetary liabilities in a manageable manner.

4. Resultantly, this writ petition is ordered, and the following directions are issued:

(i) The petitioners shall approach the 2nd

respondent with a request to inform them of the details of the outstanding amount together with interest and other charges due from them in respect of the loan account. If such a request is made within two weeks from the date of receipt of a copy of this judgment, the 2nd respondent shall forthwith issue a statement in writing detailing the amounts.

(ii) On receipt of such a statement, the

petitioners shall pay the amounts shown therein in fifteen (15) equal monthly installments commencing from 01.4.2024 and continue to pay the same on every successive W.P.C. No. 2803 of 2024 4 month thereafter until the entire loan is wiped off.

(iii) If the amounts are diligently paid in terms of the directions above, coercive proceedings initiated against them by the respondents for the realization of the amount shall be kept in abeyance.

(iv) It is made clear that if the petitioners

commit default of any two installments, they will lose the benefit of this judgment, and the concerned respondents will be free to continue the recovery proceedings against them from the stage at which they presently stand and recover the entire amount along with interest and other charges.

(v) It is further made clear that no application

for an extension of time will be entertained. sd/- RAJA VIJAYARAGHAVAN V JUDGE DCS W.P.C. No. 2803 of 2024 5 APPENDIX OF WP(C) 2803/2024 PETITIONER EXHIBITS Exhibit P1 A TRUE COPIES OF THE NOTICES DATED 18.1.2023 , ISSUED BY THE 2ND RESPONDENT, INDICATING AUCTION OF THE PROPERTY OF THE PETITIONERS Exhibit P2 A TRUE COPIES OF THE NOTICES DATED 18.1.2023 , ISSUED BY THE 2ND RESPONDENT, INDICATING AUCTION OF THE PROPERTY OF THE PETITIONERS Exhibit P3 . A TRUE COPY OF THE NOTICE DATED NIL ISSUED BY THE 2ND RESPONDENT, INDICATING AUCTION/SALE ON 25.1.2024 OF THE SCHEDULED ASSET

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