Subbiah Pillai a. vs the General Manager

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SooperKanoon Citation : sooperkanoon.com/1290551

Court : Kerala

Decided On : Jul-31-2024

Judge : Honourable Mr. Justice D. K. Singh

Appeal No. : WP(C)/9518/2022

Appellant : Subbiah Pillai a.

Respondent : The General Manager

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946 WP(C) NO. 9518 OF 2022 PETITIONERS: 1 SUBBIAH PILLAI A. AGED 62 YEARS ANCY BHAVAN, KAIRALI NAGAR, TC 37/2040), THIRUMALA.P.O, THIRUVANANTHAPURAM, PIN-695006. 2 P.RAMADEVI, AGED 60 YEARS W/O.SUBBAIAH PILLAI.A, ANCY BHAVAN, KAIRALI NAGAR, TC BY ADV K.K.JYOTHILAKSHMY RESPONDENTS: 1 THE GENERAL MANAGER THE TRIVANDRUM CO-OPERATIVE URBAN BANK LTD.KNO.1950, M.G.ROAD, THIRUVANANTHAPURAM, PIN -695001. 2 THE AUTHORIZED OFFICER, THE TRIVANDRUM CO-OPERATIVE URBAN BANK

LTD.NO.1950, M.G.ROAD, THIRUVANANTHAPURAM,PIN-695001. BY ADV Nisha George OTHER PRESENT: NISHA GEORGE THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P(C) No. 9518 of 2022 2

JUDGMENT

The present writ petition has been filed seeking the following reliefs:-

> i. Issue a writ of mandamus or any other writ, stay all further proceedings in pursuance of Exhibit-P2, Notice, 28.02.2022 issued by the Advocate Commissioner ii. issue a writ of certiorari or any other writ to declare that the proceedings initiated by the Respondent Bank without issuing any notice under the provisions of the relevant Act is not valid iii. issue a writ of mandamus or other appropriate writ,

order or direction directing to the 1st and 2nd respondent

to regularise the loan account of the petitioners and permit them to pay the pending arrears in the loan account in instalments within a time frame. or iv. any other relief or reliefs as this Honourable Court deem fit and proper.

2. The petitioners have taken a loan from the respondent

bank for an amount of Rs.17,50,000/-(Rupees Seventeen lakhs Fifty Thousand only) in the year 2014. The tenure of the loan was upto 2017. The petitioners have committed default in making repayment of the loan. Therefore, the bank classified the loan account as NPA and proceeded under the SARFAESI Act. W.P(C) No. 9518 of 2022 3

3. The learned counsel for the respondent bank submits

that, as of today the total outstanding amount is Rs. 31,69,060/- (Rupees Thirty One Lakhs Sixty Nine Thousand and Sixty only) and the bank has no objection if the petitioner pays the entire outstanding dues in twelve equal monthly instalments as this Court may direct.

4. Considering the said stand of the bank, the present

writ petition is disposed of on the following terms: i. The petitioner shall pay the entire outstanding amount twelve equal monthly instalments. ii. The first instalment is to be paid on or before 20.8.2024 and the remaining eleven instalments on or before the 15th day of each succeeding month. iii. In case of failure to make payment of first or any subsequent instalments, the bank is free to proceed in accordance with law, for realization of its outstanding dues. The writ petition stands disposed of. Sd/- DINESH KUMAR SINGH JUDGE Anu W.P(C) No. 9518 of 2022 4 APPENDIX OF WP(C) 9518/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE JUDGEMENT DATED 08.11.2018 IN W.P(C)NO.33176 OF 2018 OF THE FILE OF THIS HONOURABLE COURT Exhibit P2 TRUE COPY OF THE NOTICE, DATED 28.02.2022 ISSUED BY THE ADVOCATE COMMISSIONER IN M.C.NO.855/21.