Ajeeshya S.S, vs Authorized Officer Kerala Gramin Bank,

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SooperKanoon Citation : sooperkanoon.com/1302355

Court : Kerala

Decided On : Feb-29-2024

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/32067/2023

Appellant : Ajeeshya S.S,

Respondent : Authorized Officer Kerala Gramin Bank,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH THURSDAY, THE 29TH DAY OF FEBRUARY 2024/10TH PHALGUNA, 1945 WP(C) NO. 32067 OF 2023 PETITIONER: AJEESHYA S.S., AGED 43 YEARS, D/O SAMUEL G.N, S S NIVAS, CHARUPARA, KULATHUMMAL, KATTAKADA P.O, THIRUVANANTHAPURAM - 695572 BY ADVS. P.V.ANOOP PHIJO PRADEESH PHILIP ANJU R S. K C MOHAMED RASHID BIJITHA B. BOSE RESPONDENTS: 1 AUTHORIZED OFFICER, KERALA GRAMIN BANK, MARANALLOOR, MAHADEVA SHOPPING COMPLEX, KUVALASSERY PO, TRIVANDRUM - 695512. 2 BRANCH MANAGER, KERALA GRAMIN BANK BRANCH MANAGER, KERALA GRAMIN BANK,

MARANALLOOR, MAHADEVA SHOPPING COMPLEX, KUVALASSERY P.O., TRIVANDRUM, PIN - 695512 BY ADV. SRI.ANEESH K.M. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :2:

JUDGMENT

Dated this the 29th day of February, 2024 The petitioner has approached this Court aggrieved by the coercive proceedings for recovery of financial advance made by the Kerala Gramin Bank to the petitioner, invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The petitioner's father availed an Over Draft

facility from the respondents. The petitioner states that though the petitioner's father made remittances promptly during the initial repayment period of the financial advance, she could not pay the repayment instalments promptly later after the demise of her father. The repayment of advance fell into arrears later. It happened due to reasons beyond the control of the petitioner.

:3:

3. Though the petitioner requested the Bank to permit the petitioner to repay the outstanding amounts in easy monthly instalments, the Bank authorities were not

yielding. The authorities, instead, started coercive proceedings, invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Security Interest (Enforcement) Rules, 2002 and issued Ext.P4 notice.

4. The petitioner states that she is still in a position

to clear the outstanding amounts towards the advance, if sufficient time is given to clear the dues in easy monthly instalments. If the respondents are permitted to continue with the coercive proceedings and auction the secured assets provided by the petitioner, she will be put to untold hardship and loss.

5. Standing Counsel entered appearance on behalf of the Bank and denied all the statements made by the petitioner. The petitioner committed default in maintaining the advance facility. :4:

6. The Bank repeatedly reminded the petitioner and

required her to clear the dues. The petitioner deliberately omitted to do so. In the circumstances, the Bank had no other go, than to proceed against the petitioner invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,

2002. The impugned Ext.P4 notice was issued in these circumstances. The petitioner has not advanced any legal reasons to thwart the coercive proceedings initiated by the Bank.

7. The Standing Counsel, however, submitted that if

the petitioner is ready and willing to make a substantial payment soon and remit the balance outstanding amount immediately thereafter, a short breathing time can be granted to the petitioner to clear the dues. The Standing Counsel submitted that the outstanding amount due to the Bank from the petitioner as on 31.01.2024 is 9.82 lakhs.

8. I have heard the counsel for the petitioner and the Standing Counsel representing the Bank. :5:

9. The specific case of the petitioner is that the

petitioner has been making the repayment and maintaining the loan account initially. The default in maintenance of the account occurred lately due to reasons beyond the control of the petitioner. The petitioner has provided substantial security which will safeguard the interest of the Bank.

10. In the facts and circumstances of the case, I am inclined to dispose of the writ petition giving a short and reasonable time to the petitioner to clear off the liability.

11. The writ petition is therefore disposed of with the following directions:

(i) The petitioner shall remit the overdue

amount of 9.82 lakhs in 12 consecutive and equal monthly installments along with accruing interest and other Bank charges, if any. First of such installments shall be paid on or before 30.03.2024. :6:

(ii) If the petitioner commits default in making payments as directed above, the respondents will be at liberty to continue with coercive proceedings against the petitioner in accordance with law.

(iii) If the petitioner pays the amount as

directed above, any coercive proceedings against the petitioner will stand deferred. Sd/- N. NAGARESH JUDGE SR :7: APPENDIX OF WP(C) 32067/2023 PETITIONER'S EXHIBITS: Exhibit P1 TRUE COPY OF THE DEATH CERTIFICATE OF SAMUAL G.N DATED 30.08.2021 Exhibit P2 TRUE COPY OF THE DEATH CERTIFICATE OF THE THE P SUJATHA DATED 22.06.2021 Exhibit P3 TRUE COPY OF THE PAYMENT SLIP ISSUED BY THE RESPONDENT BANK DATED 23.07.2021 Exhibit P4 TRUE COPY OF THE POSSESSION NOTICE DATED 11.09.2023 ISSUED BY THE 1ST RESPONDENT Exhibit P5 TRUE COPY OF THE WILL DEED DATED 22.09.2009 ON THE FILES OF SRO KATTAKADA Exhibit P6 A TRUE COPY OF THE REPRESENTATION DATED 13.09.2023 PREFERRED BY THE PETITIONER BEFORE THE REGIONAL MANAGER, KERALA GRAMIN BANK Exhibit P7 TRUE COPY OF THE RTI APPLICATION DATED 15.09.2023 FILED BY PETITIONER BEFORE THE SECRETARY, KATTAKADA GRAMA PANCHAYAT