Sunny C C vs the Authorised Officer Under Sarfaesi Act

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Court : Kerala

Decided On : Mar-01-2024

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/8025/2024

Appellant : Sunny C C

Respondent : The Authorised Officer Under Sarfaesi Act

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH FRIDAY, THE 1ST DAY OF MARCH 2024 / 11TH PHALGUNA, 1945 WP(C) NO. 8025 OF 2024 PETITIONER: SUNNY C C AGED 61 YEARS S/O CHACKO, CHERUKUNNATHU VEEDU, SENAPATHY P O, IDUKKI DISTRICT, PIN - 685619 BY ADV S.SACHITHANANDA PAI RESPONDENTS: 1 THE AUTHORISED OFFICER UNDER SARFAESI ACT KERALA STATE CO OPERATIVE BANK LTD, CREDIT PROCESSING CENTRE, IDUKKI COLONY P O, PIN - 685602 2 KERALA STATE CO OPERATIVE BANK LTD SANTHANPARA BRANCH, REPRESENTED BY ITS MANAGER, SANTHANPARA P O, PIN - 685619 SRI.GILBERT GEORGE CORREYA THIS WRIT

PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.03.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 1st day of March, 2024 The petitioner, who has availed various financial advances from the Kerala State Co-operative Bank Limited, has approached this Court seeking to direct the respondents to return possession of the property and residential building taken over on 27.02.2024. The petitioner further seeks to direct the respondents not to initiate SARFAESI proceedings against the petitioner since the secured asset is agricultural property.

2. It is evident from the pleadings that pursuant to the

proceedings taken under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the respondents have taken over possession of the petitioners residential premises.

3. The Standing Counsel would submit that the total outstanding amount payable by the petitioner in respect of a

Cash Credit facility obtained by the petitioner in the year 2022 is 35,75,060/-, as on date. The Standing Counsel would further submit that an amount of 1,36,156/- is the overdue in Suvidha Plus Loan account and an amount of 1,46,663/- is the overdue in the Housing Loan account of the petitioner.

4. The petitioner submits that the respondents may be

directed to re-convey the possession of the building to the petitioner as it is the residential building of the petitioner where he and his family, inclusive of aged parents, were residing.

5. I have perused the pleadings in the writ petition.

The petitioner is primarily aggrieved by the action taken by the respondents under the provisions of the Securitisation and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002. If the petitioner has any grievance regarding any action taken under the Act, 2002, the petitioners remedy is to approach the Debts Recovery Tribunal. If the petitioner wants to make any other arrangement with the Bank, it will be open to the petitioner to approach the Bank. In the circumstances of the case, the writ petition is disposed of without granting any relief sought for by the petitioner in the writ petition, but at the same time, permitting the petitioner to approach the Bank for any arrangement / settlement of the loan accounts of the petitioner.

Sd/- N.NAGARESH JUDGE spk APPENDIX OF WP(C) 8025/2024 PETITIONER EXHIBITS Exhibit P1 COPY OF THE NOTICE DATED 28.03.2023 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER. Exhibit P2 COPY OF THE CERTIFICATE DATED 28.03.2023 ISSUED BY THE AGRICULTURAL OFFICER, SENAPATHY. Exhibit P3 COPY OF THE NOTICE DATED 17.02.2024 ISSUED BY THE ADVOCATE COMMISSIONER.