Rajesh J, vs Axis Bank Ltd

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SooperKanoon Citation : sooperkanoon.com/1312979

Court : Kerala

Decided On : Mar-01-2024

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/8119/2024

Appellant : Rajesh J,

Respondent : Axis Bank Ltd

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. 8119 OF 2024 PETITIONER: RAJESH J, AGED 39 YEARS, S/O JAYADAS, RAJESH COTTAGE, OORUTTUKALA, NEYYATTINKARA, TRIVANDRUM - 695121. BY ADV P.T.SHEEJISH RESPONDENTS: 1 AXIS BANK LTD KARAMANA BRANCH, REPRESENTED BY IT'S BRANCH MANAGER, KILLI TOWERS, KILLIPALAM, KARAMANA, NEAR PRS HOSPITAL, THIRUVANANTHAPURAM, KERALA PIN - 695002. 2 AUTHORIZED OFFICER AXIS BANK LTD., KILLI TOWERS, KILLIPALAM, KARAMANA, NEAR PRS HOSPITAL, THIRUVANANTHAPURAM, KERALA, PIN - 695002. BY

ADV.SRI.PRADEESH CHACKO THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.03.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :2:

JUDGMENT

Dated this the 1st day of March, 2024 The petitioner has approached this Court aggrieved by the coercive proceedings for recovery of financial advance made by the Axis Bank to the petitioner, invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The Bank paid 17,10,112/- to the petitioner as

Housing Loan in the year 2012. The petitioner states that though the petitioner made remittances promptly during the initial repayment period of the financial advance, he could not pay the repayment instalments promptly later due to :3: financial stringency. The repayment of loan fell into arrears. It happened due to reasons beyond the control of the petitioner.

3. Though the petitioner requested the Bank to

permit the petitioner to repay the overdue 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.P1 notice.

4. The petitioner states that he is still in a position to

clear the overdue amounts towards the loan, 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 :4: provided by the petitioner, he 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. On behalf of the respondents, it is submitted that the loan was given to the petitioner in the year 2012. The petitioner committed default in repaying the loan.

6. The Bank repeatedly reminded the petitioner and

required him 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.P1 notice was issued in these circumstances. The petitioner has not advanced any legal reasons to thwart the coercive proceedings initiated by the :5: 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 overdue 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 is 13,40,300/- and the overdue amount as on 01.03.2024 is 2,02,470/-.

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

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 repayment occurred lately due to reasons beyond the control of the petitioner. The petitioner has provided substantial security which will :6: 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 an amount of 1 lakh on or before 20.03.2024.

(ii) The petitioner shall remit the balance overdue amount in subsequent consecutive five equal monthly instalments thereafter, along with accruing interest and other Bank charges, if any.

(iii) If the petitioner commits default in making payments as directed above, the :7: respondents will be at liberty to continue with coercive proceedings against the petitioner in accordance with law.

(iv) The petitioner shall also pay current EMIs along with the aforesaid payments.

(v) If the petitioner makes payments as directed above, coercive proceedings, if any, against the petitioner shall stand deferred. Sd/- N. NAGARESH JUDGE

ams :8: APPENDIX OF WP(C) 8119/2024 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF POSSESSION NOTICE DATED RESPONDENT Exhibit P2 TRUE COPY OF ORDER IN MC NO. THIRUVANANTHAPURAM COURT DATED RESPONDENT