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Sunilkumar, vs Indian Bank,

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Court : Kerala

Decided On : May-03-2024

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : WP(C)/16767/2024

Appellant : Sunilkumar,

Respondent : Indian Bank,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH FRIDAY, THE 3RD DAY OF MAY 2024 / 13TH VAISAKHA, 1946 WP(C) NO. 16767 OF 2024 PETITIONERS:

1 SUNILKUMAR, AGED 49 YEARS S/O KUMARAN, AYCATTU HOUSE, KAKKUDUMON P O, ATHIKKAYANL, RANNI, PATHANAMTHITTA, DISTRICT, KERALA PIN 689711 MOB;-6238492962 NOW RESIDING AT AYCATTU HOUSE, UTHIMOODU P O, RANNI, PATHANANTHITTA, PIN - 689672 2 SMITHA SUNIL, AGED 45 YEARS W/O SUNILKUMAR, AYCATTU HOUSE,KAKKUDUMON P O, ATHIKKAYAM, RANNI, PATHANAMTHITTA DISTRICT, KERALA PIN

689711 MOB;- 6238492962. NOW RESIDING AT AYCATTU HOUSE, UTHIMOODU P O, RANNI, PATHANAMTHITTA, PIN - 689672 BY ADVS. P.K.MURALEEDHARAN SUNU P.JOHN

RESPONDENT: INDIAN BANK, NRI, RANNI BRANCH, MADAPPALLIL BUILDING, COLLEGE ROAD, PAZHAVANGADI P O, RANNI, PHONE-04735-225499, REPRESENTED BY ITS AUTHORISED OFFICER, PIN - 689673 SC- SRI BINOY VASUDEVAN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03.05.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 3rd day of May, 2024 The petitioners are challenging the recovery proceedings initiated against him under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The petitioners have availed a credit facility from the

respondent Bank and consequent to the default committed by the petitioners in repaying the amount, the said account is declared as NPA. Accordingly, recovery proceedings have been initiated which is impugned in this writ petition.

3. Heard Sri.P.K. Muraleedharan, the learned counsel for the petitioners and Sri. Binoy Vasudevan, the learned standing counsel for the respondent.

4. The learned counsel appearing for the Bank submits

that as on date, an amount of Rs.9,19,000/- is overdue in the loan. It is submitted by the learned counsel for the Bank upon instructions that, they are amenable for granting an opportunity to the petitioner to regularise the loan account by paying the entire instalment overdue along with interest in reasonable monthly instalments. In such circumstances, this writ petition is disposed of granting an opportunity to the petitioners to regularise the loan account by paying the instalment overdue as mentioned above along with interest due thereon in 12 equal monthly instalments commencing from 01.06.2024 onwards. The

subsequent instalments shall be paid by the petitioner on the 5 th day of every succeeding months. Along with the aforesaid payment, regular monthly instalment shall also be paid. In case of default on the part of the petitioner in payment of any of the instalments including regular monthly instalments, the aforesaid facility shall stand cancelled, upon which the Bank will be at liberty to proceed with the recovery proceedings. Subject to the above direction, the recovery proceedings against the petitioner is directed to be kept in abeyance. Sd/- DR. KAUSER EDAPPAGATH SK JUDGE APPENDIX OF WP(C) 16767/2024 PETITIONER EXHIBITS : Exhibit P1 A TRUE COPY OF THE STATEMENT OF ACCOUNT OF THE LOAN ACCOUNT NO. 6520083595 IN THE NAME OF THE FIRM SREDHA ENTERPRISES DATED Exhibit P1(a) A TRUE, COPY OF STATEMENT OF ACCOUNT ISSUED BY THE RESPONDENT BANK REGARDING THE ACCOUNT NO. 6883528963 IN THE NAME OF THE FIRM SREDHA Exhibit P1(b) A TRUE COPY OF STATEMENT OF ACCOUNT ISSUED BY 7027366205 IN THE NAME OF THE FIRM SREDHA Exhibit P1(c) A TRUE COPY OF STATEMENT OF ACCOUNT ISSUED BY 7247844716 IN THE NAME OF THE FIRM SREDHA Exhibit P1(d) A TRUE COPY OF STATEMENT OF ACCOUNT ISSUED BY 6794886272 IN THE NAME OF THE SECOND PETITIONER SMITHA SUNIL DATED 19/4/2024 Exhibit P2 A TRUE COPY OF THE SECTION 13(2) NOTICE UNDER THE SARFAESI ACT DATED 12/12/2023 ISSUED BY THE RESPONDENT TO THE PETITIONERS Exhibit P3 A TRUE COPY OF THE POSSESSION NOTICE FOR IMMOVABLE PROPERTY ISSUED BY THE RESPONDENT DATED 28/2/2024 Exhibit P4 A TRUE COPY OF THE REPRESENTATION MADE BY THE PETITIONERS TO THE RESPONDENT BANK VIDE DATED

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