Robert vs the Manager

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SooperKanoon Citation : sooperkanoon.com/1327149

Court : Kerala

Decided On : Jun-07-2024

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/20655/2024

Appellant : Robert

Respondent : The Manager

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH FRIDAY, THE 7TH DAY OF JUNE 2024 / 17TH JYAISHTA, 1946 WP(C) NO. 20655 OF 2024 PETITIONER: ROBERT AGED 77 YEARS S/O.CHARLY, KALLUMMOOTTIL VADAKKATHIL, PRIYADARSINI NAGAR - 54, MANGADU P.O, KOLLAM, PIN - 691015 BY ADVS. PRATHEESH.P ANJANA KANNATH MARIYA JOSE RESPONDENTS: 1 THE MANAGER QUILON CO-OPERATIVE URBAN BANK LTD., 960, AYATHIL BRANCH, POWER HOUSE JUNCTION, AYATHIL, KILIKOLLOOR P.O, KOLLAM, PIN - 691004 2 THE AUTHORIZED OFFICER QUILON CO-OPERATIVE URBAN BANK LTD., 960, YMCA ROAD, CHINNAKKADA, KOLLAM , PIN - 691001 SMT.P.P.RENU-R1 &

R2 THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07.06.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 7th day of June, 2024 The petitioner has approached this Court aggrieved by the coercive proceedings for recovery of financial advance made by the Quilon Co-operative Urban Bank Limited 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 2.5 lakhs to the petitioner as Term

Loan in the year 2018. 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 installments promptly later due to 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

installments, 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.P2 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 installments. If the respondents are permitted to continue with the coercive proceedings and auction the secured assets 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 2018. 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. The petitioners loan account was declared as NPA in the year 2019. 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.P2 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 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 as on 07.06.2024 is 4,44,050/- and the

overdue amount as on 07.06.2024 is 3,39,860/-.

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 of the loan 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 1 lakh within a period of three weeks from today and the balance overdue amount in 10 consecutive and equal monthly installments immediately thereafter along with accruing interest and other Bank charges, if any.

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

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

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

hmh APPENDIX OF WP(C) 20655/2024 PETITIONER EXHIBITS Exhibit P1 THE COPY OF THE MEDICAL CERTIFICATE ISSUED IN THE NAME OF THE ANIL ROBERT, WHO IS THE SON OF THE PETITIONER DATED 24.1.2024 Exhibit P2 THE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER IN M.C NO.452/2024 DATED 20.5.2024 ON THE FILE OF CJM COURT, KOLLAM