

Daisy Shaji vs the Manager

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Court : Kerala

Decided On : Jul-19-2024

Judge : Honourable Mr. Justice D. K. Singh

Appeal No. : WP(C)/25686/2024

Appellant : Daisy Shaji

Respondent : The Manager

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
FRIDAY, THE 19TH DAY OF JULY 2024 / 28TH ASHADHA, 1946
WP(C) NO. 25686 OF 2024 PETITIONERS: 1 DAISY SHAJI, AGED 48
YEARS,W/O SHAJI, KARIMBUMALIL, KALLUVAYAL, KALLUVAYAL
P.O., KANNUR DISTRICT, PIN - 670703 2 SHAJI JACOB, AGED 54
YEARS, S/O JACOB, KARIMBUMALIL, KALLUVAYAL, KALLUVAYAL
P.O., KANNUR DISTRICT, PIN - 670703 BY ADV V.N.RAMESAN
NAMBISAN RESPONDENTS: 1 THE MANAGER KERALA GRAMIN
BANK, IRITTY BRANCH, IRITTY, KANNUR DISTRICT, PIN - 670703 2
THE AUTHORIZED OFFICER, KERALA GRAMIN BANK, REGIONAL
OFFICE, KANNUR, PIN - 670001 BY SRI. M. GOPIKRISHNAN

NAMBIAR-SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :2:

DINESH KUMAR SINGH, J.

Dated this the 19th day of July, 2024

JUDGMENT

The present writ petition has been filed for the following prayers; i. To issue a writ of mandamus or any other appropriate writ, order or direction and command the respondents to grant sufficient time to repay the demanded amount in Exts-P1 and P2 after adjusting the amount already paid;

ii. To declare that the property mortgaged by the petitioners admeasuring 0.4047 hectares comprised in R.S No. 188/4 of Padiyoor Village, Iritty Taluk, Kannur District is an agricultural land and agricultural activities are being carried out in the land and also that land consists of rubber plants, 60 coconut trees and other agricultural yieldings and therefore in view of the specific bar under Section 31(1) of the SARFAESI Act, 2002 and the law laid down by the Hon'ble Supreme Court in Indian Bank and another Vs. K. Pappireddiar and another, reported in 2018 (4) KHC 86, the recovery proceedings initiated by the respondents Bank in Exts-P1 and P2 is not legally maintainable and liable to be interfered;

iii. To declare that as evident from the records, out of the Rs.2.5 lakhs availed as on 14.01.2015, Rs.1 lakh was initially paid and after the Compromise Settlement as evident from ExtsP3, P4 and P4(a), another Rs.50,000/- was paid and the Bank has agreed to settle the liability for :3: Rs.6.5 lakhs and after adjusting the above payment the petitioners may be permitted to close Loan Account in respect of Ext-P1 Notice and Ext-P2 Sale Notice with respect to the Loan Account No. 48715340000115 in an _ affordable and convenient instalments; and iv. To grant

such other and further relief as this Honorable Court may consider just and proper in the facts and circumstances of the case.

2. The petitioners have taken three Cash Credit

facilities from the Bank. All the petitioners failed to service the loan accounts, and therefore, all three accounts were classified as NPAs. The Bank has proceeded with SARFAESI proceedings to realize the amounts due in respect of the three loan accounts.

3. Adv. Akhila Nambiar, the learned counsel for the

Bank, submits that as on today, the total outstanding amount is Rs.12,76,184/-, and if the petitioner undertakes to pay the said amount in instalments at once, without any of the objection.

4. Considering the aforesaid submission made on

behalf of the respondent Bank, the present writ petition is disposed of in the following terms; i) The petitioners shall pay the entire outstanding amount :4: along with future interest, if any, in 10 monthly instalments. The first instalment is to be paid on or before 15.08.2024, and the remaining 9 instalments on or before the 14th day of each succeeding month. ii) In case of failure to make payment of the first instalment or any subsequent instalments as directed above, the Bank shall be free to proceed against the petitioner in accordance with the law. With the aforesaid directions, the writ petition is disposed of. Sd/- DINESH KUMAR SINGH JUDGE RPR/- :5: APPENDIX OF WP(C) 25686/2024 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE DEMAND NOTICE REF.

NO.175/KGB/RL/ SARFAESI/997728/2023 DATED 27.07.2023 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER. EXHIBIT P2 TRUE COPY OF THE SALE NOTICE NO. KGB/ROKN2/SARFAESI/SALE/11/2024-25 DATED 14.06.2024 ISSUED TO THE PETITIONERS BY THE 2ND EXHIBIT P3 TRUE COPY OF THE REQUEST LETTER FOR COMPROMISE SETTLEMENT DATED

11.01.2024 SUBMITTED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT. EXHIBIT P4 TRUE COPY OF THE RECEIPT DATED 12.01.2024 FOR PAYMENT OF RS.5,000/- ISSUED BY THE 1ST

EXHIBIT P4(A) TRUE COPY OF THE RECEIPT DATED 19.03.2024 FOR PAYMENT OF RS.45,000/- ISSUED BY THE 1ST EXHIBIT P5 TRUE COPY OF THE DISCHARGE SUMMARY DATED 01.07.2023 ISSUED TO THE 1ST PETITIONER BY BABY MEMORIAL HOSPITAL, KANNUR. EXHIBIT P6 TRUE COPY OF THE CERTIFICATE NO. K.B.P.D.R AGRICULTURAL OFFICER, KRISHI BHAVAN, PADIYOOR, KANNUR DISTRICT WITH ITS ENGLISH TRANSLATION.

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