Binukumar.G, vs the Authorized Officer,

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SooperKanoon Citation : sooperkanoon.com/1329371

Court : Kerala

Decided On : Jul-31-2024

Judge : Honourable Mr. Justice D. K. Singh

Appeal No. : WP(C)/27082/2024

Appellant : Binukumar.G,

Respondent : The Authorized Officer,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946 WP(C) NO. 27082 OF 2024 PETITIONERS: 1 BINUKUMAR.G, AGED 45 YEARS S/O GOPALAKRISHNAN NAIR ,CHAITHANYAAM PLAVILA, OORUTTAMBALAM.P.O, THIRUVANANTHAPURAM, PIN - 695507 2 MANJU.V.NAIR, AGED 45 YEARS W/O BINUKUMAR.G ,CHAITHANYAAM PLAVILA, OORUTTAMBALAM.P.O, THIRUVANANTHAPURAM, PIN - 695507 BY ADV KEERTHI SOLOMON RESPONDENT: THE AUTHORIZED OFFICER, LIC HOUSING FINANCE LTD,2ND FLOOR, LEELA TOWERS,KESAVADASAPURAM,PATTOM.P.O,

THIRUVANANTHAPURAM, PIN - 695004 BY ADVS. ASP.KURUP SADCHITH.P.KURUP(K/1419/2002) C.P.ANIL RAJ(K/872/2007) SIVA SURESH(K/2688/2022) B.SREEDEVI(K/169/2024) ATHIRA VIJAYAN(K/199/2024) SRI.A.S.P. KURUP-SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 31st day of July, 2024 The present Writ Petition has been filed seeking the following prayers:

> i. Issue a writ, order or direction in the nature of Mandamus, or such other writ, order or direction, directing the respondent to refrain from taking over the residential house and property of the petitioners as per Exhibit P6 notice. ii. Issue a writ ,order or direction to the respondent to permit the petitioners to settle the loan account by offering them an opportunity to repay the overdue loan amount to the respondent in minimum 5 instalments by excluding the penal interest and all extra charges in the loan due and regularizing their loan account which has been classified as NPA. iii. such other appropriate writ, order or direction sought for in the course of the proceedings.

2. The petitioners have obtained three housing loans

from the respondent Financial Institution. The petitioners had committed default in making repayment of the loans and therefore, the Financial Institution has classified the petitioners loan accounts as NPA and proceeded with the SARFAESI proceedings.

3. The learned counsel for the respondent Financial

Institution submits that if the petitioners deposit upfront substantial amount and agrees to pay the remaining overdue amount in few instalments as this court may fix, along with the regular instalments, the Financial Institution will regularize the loan accounts of the petitioners to make payment in terms of the loan agreement, which would expire in 2031. As of today, total outstanding is Rs.24,84,200/- and overdue amount is Rs.6,28,500/-.

4. Considering the said stand of the learned counsel

for the Financial Institution, the present writ petition is disposed of in the following terms: i. The petitioners shall pay upfront amount of Rs.2,00,000/- along with one regular instalment, on or before 31.08.2024. ii. The petitioners shall pay the remaining overdue amount in two equal monthly instalments along with the regular instalments. The 1st instalment is to be paid on or before 07.10.2024 and the next instalment along with the regular instalment on or before 07.11.2024. ii. Once the petitioners clear the overdue amount, the respondent Financial Institution shall regularize the loan accounts of the petitioners for making payment in terms of the loan agreements. iii. In case of failure to make upfront payment of Rs.2,00,000/- or any instalments as directed above, the respondent Financial Institution shall be free to proceed with the SARFAESI proceedings against the petitioners for realizing the outstanding loan amount. With the aforesaid directions, the present writ petition stands finally disposed of. Sd/- DINESH KUMAR SINGH JUDGE AP APPENDIX OF WP(C) 27082/2024 PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE STATEMENT OF ACCOUNTS DATED 25.07.2024 ISSUED BY THE RESPONDENT BANK IN LOAN ACCOUNT NO.520500001611 Exhibit P2 A TRUE COPY OF THE STATEMENT OF ACCOUNTS ISSUED ON 25.07.2024 ISSUED BY THE RESPONDENT BANK IN LOAN ACCOUNT NO.520500002309 Exhibit P3 A TRUE COPY OF THE STATEMENT OF ACCOUNTS ISSUED BY THE RESPONDENT, IN LOAN ACCOUNT NO.520500003571 ON 25/07/2024 Exhibit P4 THE TRUE COPY OF THE FIXED DEPOSIT RECEIPTS OF THE TOTAL AMOUNT OF RS.8,00,000/- (EIGHT LAKHS Exhibit P4(a) THE TRUE COPY OF THE FIXED DEPOSIT RECEIPTS OF THE TOTAL AMOUNT OF RS.3,00,000/- (THREE LAKHS Exhibit P4(b) THE TRUE COPY OF THE FIXED DEPOSIT RECEIPTS OF THE TOTAL AMOUNT OF RS.1,00,000/- ONE LAKHS Exhibit P4 (c) THE TRUE COPY OF THE FIXED DEPOSIT RECEIPTS OF THE TOTAL AMOUNT OF RS.1,00,000/- (ONE LAKHS Exhibit P4 (d) HE TRUE COPY OF THE FIXED DEPOSIT RECEIPTS OF THE TOTAL AMOUNT OF

RS.1,00,000/- (ONE LAKHS Exhibit P5 TRUE COPY OF THE NOTICE UNDER SECTION 13(2) OF THE SARFAESI ACT 2002 DATED 15.12.2022 ISSUED BY THE RESPONDENT Exhibit P6 THE TRUE COPY OF THE NOTICE ISSUED BY THE

ADVOCATE COMMISSIONER IN M.C.NO. 392/2024 OF THE CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM DATED 23.07.2024 RESPONDENT EXHIBITS Exhibit R1A A true copy of the affidavit dated 27.7.2024 given by the 2nd petitioner with English Translation