

Lissy Jose, vs State Bank of India (Erstwhile Sbt),

Lissy Jose, vs State Bank of India (Erstwhile Sbt),

SooperKanoon Citation : sooperkanoon.com/1370764

Court : Kerala

Decided On : Jun-30-2023

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : WP(C)/21105/2023

Appellant : Lissy Jose,

Respondent : State Bank of India (Erstwhile Sbt),

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 30TH DAY OF JUNE 2023 / 9TH ASHADHA, 1945 PETITIONER: LISSY JOSE, AGED 53 YEARS D/O. K.C.DANIEL, THAYYIL HOUSE, "KRIPA BHAVAN", PULSE NAGAR, ROAD, KOZHIVATTOM VELI, EROOR P.O., ERNAKULAM, PIN - 682306 BY ADV E.V.MOLY RESPONDENT: STATE BANK OF INDIA (ERSTWHILE SBT), STRESSED ASSET RECOVERY BRANCH, 7TH FLOOR, VANKARATH TOWERS, PALARIVATTOM, BY-PASS JUNCTION COCHIN -682024, REP. BY ITS AUTHORIZED OFFICER BY ADV M.JITHESH MENON THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30.06.2023, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING: :: 2 ::

JUDGMENT

Dated this the 30th day of June 2023 The writ petition is filed to direct the respondents to enlarge the time period fixed to make the payment of the outstanding amount under the one time settlement scheme (OTS) facility and waive the payment of penal interest.

2. The petitioners case is that, she had availed financial assistance from respondent - bank by creating an equitable mortgage by deposit of title deeds. Due to unforeseen circumstances, she could not pay the instalments on time. The bank has now instituted O.S.111/21 before the Court of the Subordinate Judge- II, Ernakulam, for recovery of money. The petitioner had submitted Ext.P2 proposal to avail the OTS facility. Eventhough the proposal was considered in the petitioners favour, she was unable to pay the outstanding amount fixed by the respondent. Now the :: 3 ::

petitioner has preferred Ext.P4 fresh proposal, seeking for further extension of the time period granted by the respondent. But, the fresh proposal is not considered by the respondent. Hence, the writ petition.

3. Heard; Smt.E.V.Moly, the learned counsel appearing for the petitioner and Sri.Jithesh Menon, the learned counsel appearing for the respondent.

4. In Sate Bank of India v. Arvindra Electronics

Private Limited [2022 KHC 7165], the Honble Supreme Court has categorically held that the High Court shall not, by exercising its extraordinary powers under Article 226 of Constitution of India, enlarge the time period fixed by the financial institutions to pay the outstanding amounts under the OTS scheme.

5. In the case on hand, indisputably, the first

respondent bank has already considered the petitioners proposal and fixed a time frame within :: 4 :: which the petitioner has to pay the outstanding amount under

the OTS scheme.

6. Going by the law laid down in the abovesaid

decision, I am not inclined to exercise the extra ordinary powers of this Court under Article 226 of the Constitution of India and enlarge the time period fixed in Ext.P2 as prayed for in the writ petition.

The writ petition is meritless and is hence, consequently, dismissed. sd/- C.S.DIAS
JUDGE
:: 5 :: APPENDIX OF WP(C) 21105/2023 PETITIONERS EXHIBITS:
Exhibit P1 THE TRUE COPY OF THE PLAINT COPY BEING NUMBERED AS O.S.NO.111/2021 PENDING BEFORE HON'BLE SUB COURT -II, ERNAKULAM AS RECEIVED BY THE PETITIONER
Exhibit P2 THE TRUE COPY OF THE LETTER DATED 03.11.2021 ISSUED BY THE RESPONDENT BANK
Exhibit P3 THE TRUE COPY OF THE RECEIPT FOR DEPOSIT OF RS.1,08,000/- ON 29.12.2021
Exhibit P4 THE TRUE COPY OF THE REPRESENTATION REQUESTING OTS

FACILITY SUBMITTED BY THE PETITIONER DATED 23.06.2023 ALONG WITH POSTAL RECEIPT FOR REGISTRATION OF THE SAME IN FAVOUR OF THE RESPONDENT BANK

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com