Shafy.M.a, vs the Branch Manager

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SooperKanoon Citation : sooperkanoon.com/1377179

Court : Kerala

Decided On : Aug-09-2023

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : WP(C)/24293/2023

Appellant : Shafy.M.a,

Respondent : The Branch Manager

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS WEDNESDAY, THE 9TH DAY OF AUGUST 2023 / 18TH SRAVANA, 1945 PETITIONER: SHAFY.M.A, AGED 38 YEARS S/O. ABUBECKAR, MANKUNNATH HOUSE, MARATAHAKODE P.O, CHERUMANGAD, THRISSUR DISTRICT, PIN - 680604 BY ADV MAHESH V.MENON RESPONDENTS: 1 THE BRANCH MANAGER AXIS BANK LTD KUNNAMKULAM BRANCH, KUNNAMKULAM P.O, THRISSUR DISTRICT, PIN - 680503 2 THE AUTHORISED OFFICER AXIS BANK LTD KUNNAMKULAM BRANCH, KUNNAMKULAM P.O, THRISSUR DISTRICT, PIN - 680503 BY ADVS.P.V.SARITHA VENUGOPAL N.P.RUKSANA(K/329/2015) AMRUTHA M.V.(K/535/2017) THIS WRIT

PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :: 2 ::

JUDGMENT

Dated this the 9th day of August 2023 The writ petition is filed to direct the respondents to permit the petitioner to pay the overdue amount in instalments and regularise the loan account.

2. The petitioners case is that, he had availed

housing loan from the first respondent - Bank by creating an equitable mortgage by deposit of title deeds. Due to reasons beyond his control, he could not pay the instalments on time. The Bank has now proceeded against the secured assets under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, Act). The petitioner is willing to pay the overdue amount in equated monthly instalments. Hence, the writ petition. :: 3 ::

3. Heard; Sri.Mahesh V. Menon, the learned counsel appearing for the petitioner and Smt.Saritha Venugopal, the learned counsel appearing for the respondents.

4. Smt.Saritha Venugopal, on instructions, submitted that the overdue amount as on today is

Rs.1,20,000/-. The tenure of the loan is 2040. The respondents are willing to permit the petitioner to pay the above overdue amount in ten equated monthly instalments. The said submission is recorded.

5. The learned counsel appearing for the petitioner submitted that the petitioner may be granted atleast 15 instalments to pay the overdue amount.

6. Having considered the pleadings and materials

on record and the submission made by the learned counsel appearing for the parties, to provide the petitioner one last opportunity to pay off the overdue amount, I am inclined to exercise the powers of this :: 4 :: Court under Article 226 of the Constitution of India and dispose of the writ petition. Resultantly, I dispose of the writ petition in the following manner:

(i) The respondents are directed to defer further coercive proceedings pursuant to Ext.P1 to enable the petitioner to pay the overdue amount in instalments.

(ii) The petitioner is permitted to pay the overdue

amount as stated above with future interest and cost to the first respondent - Bank - in 12 equated monthly instalments commencing from 9.09.2023 along with regular EMIs.

(iii) Needless to mention, if the petitioner commits

default of the condition ordered above, he would lose the benefit of this judgment and the respondents would be at liberty to proceed with recovery proceedings from the stage it presently stands. (iv)It is made clear that, no further application for modification/extension of time shall be entertained. sd/- C.S.DIAS JUDGE jes :: 5 :: APPENDIX OF WP(C) 24293/2023 PETITIONERS EXHIBITS: Exhibit P1 A TRUE COPY OF THE NOTICE ISSUED BY ISSUED BY THE 2ND RESPONDENT DATED 15.06.2023