

Devadasan vs the Authorised Officer

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Court : Kerala

Decided On : Sep-19-2023

Judge : Honourable Mr.Justice K. Babu

Appeal No. : WP(C)/30669/2023

Appellant : Devadasan

Respondent : The Authorised Officer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K. BABU TUESDAY, THE 19TH DAY OF SEPTEMBER 2023 / 28TH BHADRA, 1945
PETITIONER: DEVADASAN, AGED 62 YEARS, S/O KUTTAN, RESIDING AT MP X/314, KARUNYAM KODITHOOKKIKUNNU, KAVALAYOOR, VARKALA, THIRUVANANTHAPURAM, PIN - 695144
BY ADVS. SRI.S.JUSTUS SRI.V.HARI RESPONDENTS: 1 THE AUTHORISED OFFICER, STATE BANK OF INDIA, STRESSED ASSET RECOVERY BRANCH (SARB), LMS COMPOUND, VIKAS BHAVAN P.O., THIRUVANANTHAPURAM, PIN - 695033 2 THE CHIEF MANAGER, STATE BANK OF INDIA, PANAVIDA BRANCH, KOUSTHUBHAM COMMERCIAL COMPLEX, PANAVIDA,

THIRUVANANTHAPURAM, PIN - BY ADV. SRI.JITHESH MENON,SC
THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19.09.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.BABU, J.

===== W.P.(C.) No. 30669 OF 2023
===== Dated this the 19th day of September, 2023

JUDGMENT

The reliefs prayed for in this Writ Petition are as follows:- i . Issue a Writ of Mandamus or any other appropriate writ, order or direction directing the respondents to regularize the loan account and to give him 20 months time and installment facility to pay off the entire arrears. ii. Issue a Writ of Mandamus or any other appropriate writ, order or direction directing the respondents to give him maximum months time and installment facility to pay off the entire loan amounts if they are not willing to regularize the loan account. iii. Issue such other writ or direction which this Hon'ble Court may deem fit and proper on the facts and circumstances of the case and in the interest of justice.

2. The petitioner had availed a home loan of

Rs.22,40,000/- from the 2nd respondent Bank mortgaging 8.10 Ares of land and building in Re.Sy.No.155/20. The petitioner committed default in repaying the amount due to the respondent Bank. The respondent Bank proceeded against the petitioner under the SARFAESI Act.

3. When the officials of the bank visited the

mortgaged property on 15.09.2023, the petitioner had agreed to pay 25% of the total liability on or before 19.09.2023. The learned counsel for the petitioner submitted that, the petitioner is prepared to remit 25% of the total liability within two weeks and to submit a proposal for One Time Settlement.

4. The learned counsel for the respondent Bank

submitted that, if the petitioner remits 25% of outstanding liability within two weeks from today (19.09.2023), the bank will consider the proposal for OTS. Having regard to the submissions made across the Bar, this writ petition is disposed of with the following directions:-

(i) The petitioner shall remit 25% of the outstanding liability within two weeks from today (19.09.2023).

(ii) If the petitioner submits a proposal for OTS, the competent authority in the bank will take a decision on the proposal, in accordance with law.

(iii) If the petitioner remits the amount as mentioned above, the proceedings initiated against the petitioner shall be kept in abeyance till a decision is taken on the OTS proposal.

(iv) If the petitioner fails to remit the amount as

mentioned above, the bank will be at liberty to proceed under the SARFAESI Act.

Sd/- K. BABU JUDGE LU APPENDIX OF WP(C) 30669/2023 PETITIONER EXHIBITS : EXHIBIT - P1 TRUE COPY OF THE NOTICE DATED 16.08.2023 ISSUED BY THE ADVOCATE COMMISSIONER ALONGWITH THE ENGLISH TRANSLATION // True Copy // PA To Judge

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