

Robert Akkara vs the Branch Manager

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Court : Kerala

Decided On : Dec-18-2023

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/42304/2023

Appellant : Robert Akkara

Respondent : The Branch Manager

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH MONDAY,
THE 18TH DAY OF DECEMBER 2023 / 27TH AGRAHAYANA, 1945
WP(C) NO. 42304 OF 2023 MC No.665/2023 OF CHIEF JUDICIAL
MAGISTRATE ,KOLLAM PETITIONER/COUNTER PETITIONER:
ROBERT AKKARA AGED 60 YEARS, S/O KUNJU PAUL, AKKARA
HOUSE, GOVINDAMANAGALAM , PULAMON P.O, KOTTARAKARA,
KOLLAM DISTRICT, PIN - 691 506. BY ADV MAHESH V.MENON
RESPONDENTS/PETITIONERS: 1 THE BRANCH MANAGER STATE
BANK OF INDIA, KOTTARAKARA BRANCH , KOLLAM DISTRICT, PIN
- 691 506. 2 THE AUTHORISED OFFICER STATE BANK OF INDIA,
SARB,114, KALABHAVAN MANI RD, PANAVIDA, THYCAUD,

THIRUVANANTHAPURAM, PIN - 695 034. BY ADV JAWAHAR JOSE
THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18.12.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: :2:

JUDGMENT

Dated this the 18th day of December, 2023 The petitioner is running a textile business in the name and style Indian Tex at Kottarakara. He had availed a cash credit facility of 1,50,00,000/- from the 1 st respondent bank in the year 2016.

2. The petitioner had remitted the amount due to the

respondent-Bank without any default. While so due to continuous loss and out brake of Covid 19 pandemic put the petitioner into acute paucity of funds. The respondent -Bank proceeded against the petitioner for realization of amount due to the Bank under the SARFAESI Act. The Advocate Commissioner appointed by the Chief Judicial Magistrate Court, Kollam has issued Ext.P1 notice under the SARFAESI Act. The petitioner is not in a position to remit the amount in lumsum due to financial stringency.

:3:

3. The petitioner is taking earnest effort to clear of the liability. The petitioner is ready and willing to remit the

amount due to the respondent-Bank. Therefore, the petitioner seeks to direct the respondent-Bank to allow the petitioner to remit the amount due to the respondent-Bank in installments.

4. The Standing Counsel entered appearance on

behalf of respondents 1 and 2 and opposed the writ petition. The Standing Counsel pointed out that the cash credit facility extended to the petitioner in the year 2016 was of 1.5 Crores. The petitioner failed to maintain the cash credit account. The respondents repeatedly requested the petitioner to remit money in

the credit account. The petitioner miserably failed to do so. The establishment of the petitioner is not functioning any more. In the circumstances, the petitioner is not justified in demanding instalment facility for repayment.

5. I have heard the learned counsel for the petitioner and the learned Standing Counsel representing the Bank. :4:

6. The specific case of the petitioner is that the

petitioner has been maintained the loan account properly during the initial days of advance. The default in repayment occurred lately due to reasons beyond the control of the petitioner. The petitioner has provided substantial security which will safeguard the interest of the Bank.

7. Considering the facts of the case, I am inclined to dispose of the writ petition giving a short and reasonable time to the petitioner to clear off the liability. The writ petition is disposed of directing that if the petitioner remits an amount of 20 lakhs on or before 30.12.2023 and the balance outstanding amount in 11 equal

and consecutive monthly instalments, then coercive proceedings, if any, against the petitioner shall stand deferred. If the petitioner commits any default in repaying the amount as directed above the respondents will be at liberty to proceeding against the petitioner in accordance with law. Sd/- N. NAGARESH AMR JUDGE :5: APPENDIX OF WP(C) 42304/2023 PETITIONER'S EXHIBIT Exhibit P1 A TRUE COPY OF NOTICE DATED 03.12.2023 ISSUED BY THE ADVOCATE COMMISSIONER APPOINTED BY THE CHIEF JUDICIAL MAGISTRATE COURT, KOLLAM TO THE PETITIONER.

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