Abdul Latheef vs the Branch Manager

Abdul Latheef vs the Branch Manager

SooperKanoon Citation : sooperkanoon.com/1423815

Court : Kerala

Decided On : Dec-18-2023

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/42479/2023

Appellant : Abdul Latheef

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. 42479 OF 2023 PETITIONERS: 1 ABDUL LATHEEF AGED 36 YEARS S/O KUNJIMON, NAMBISSERY HOUSE, OTATHENGU, ORUMANAYUR, THRISSUR, PIN - 680518 2 RUKIYA. C AGED 65 YEARS W/O. KUNJIMON, NABISSERY HOUSE, OTATHENGU, ORUMANAYUR, THRISSUR, PIN - 680518 BY ADV P.R.JAYASANKAR RESPONDENTS: 1 THE BRANCH MANAGER FEDERAL BANK, LIMA TOWER, SH 50, OPP POLICE STATION, CHAVAKKAD, THRISSUR, PIN - 680506 2 THE AUTHORIZED OFFICER FEDERAL BANK, LIMA TOWER, SH 50, OPP POLICE STATION, CHAVAKKAD, THRISSUR,

PIN - 680506 SRI.P.PAULOCHAN ANTONY THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 18th day of December, 2023 The petitioners have approached this Court aggrieved by the coercive proceedings for recovery of financial advance made by the Federal Bank to the petitioner, invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The petitioners along with two others availed three

loans from the Bank for 1 Crore for establishing a Farm House. The petitioners state that though the petitioners made remittances promptly during the initial repayment period of the financial advance, they could not pay the repayment instalments promptly later due to Covid-19 pandemic. The repayment of loan fell into arrears. It happened due to reasons beyond the control of the petitioners.

3. Though the petitioners requested the Bank to permit

the petitioners to repay the overdue amounts in easy monthly instalments, the Bank authorities were not yielding. The authorities, instead started coercive proceedings invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Security Interest (Enforcement) Rules, 2002 and issued Exts.P1 and P2 notices.

4. The petitioners state that they are still in a position to

clear the overdue amounts towards the loan, if sufficient time is given to clear the dues in easy monthly instalments. If the respondent is permitted to continue with the coercive proceedings and auction the secured assets provided by the petitioners, they will be put to untold hardship and loss.

5. Standing Counsel entered appearance on behalf of the Bank and resisted the writ petition. The Standing Counsel pointed out that on the consistent default made by the

petitioners that coercive proceedings were taken. The petitioners did not maintain the loan account properly in spite of the repeated reminders made by the respondent. In the circumstances, the petitioners cannot granted any relief. However, If the petitioners want some sort of settlement in the matter, the petitioners have to make a bulk payment and approach the Bank. The Standing Counsel further pointed out that the total outstanding amount as on 18.12.2023 payable by the petitioners is 1,86,80,000/-.

6. I have heard the counsel for the petitioners and the Standing Counsel representing the Bank.

7. Taking into consideration the fact that the loan was

granted in the year 2018 and taking into consideration the huge total outstanding amount being due from the petitioners, I am of the view that it would be only proper that the petitioners approach the Bank itself for any settlement in the matter. In the circumstances of the case, the writ petition is

disposed of directing that if the petitioners remit an amount of 10 lakhs on or before 30.12.2023 and a further amount of 10 lakhs on or before 15.01.2024 and make a proposal for the settlement of the loan account through instalments or otherwise, the Bank may consider the same and take appropriate decision in accordance with law. If the petitioners make the remittances as directed above, coercive proceedings, if any, shall stand deferred till the Bank takes a decision.

Sd/- N.NAGARESH JUDGE hmh APPENDIX OF WP(C) 42479/2023 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT UNDER SECTION 13(2) OF SARFAESI ACT DATED 18/1/2022 Exhibit P2 TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 2/12/2023