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Amina V vs Authorized Officer,Kerala State Co-Operative Bank,Areekode-Branch , Malappuram

Amina V vs Authorized Officer,Kerala State Co-Operative Bank,Areekode-Branch , Malappuram

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Court : Kerala

Decided On : Dec-22-2023

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/43833/2023

Appellant : Amina V

Respondent : Authorized Officer,Kerala State Co-Operative Bank,Areekode-Branch , Malappuram

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH FRIDAY, THE 22ND DAY OF DECEMBER 2023 / 1ST POUSHA, 1945 WP(C) NO. 43833 OF 2023 PETITIONER: AMINA V AGED 52 YEARS W/O ABDURAHMAN K.C,KALATHINGAL HOUSE, KARIPPARAMBU, UGRAPURAM PO, MALAPPURAM DISTRICT, KERALA., PIN - 673639 BY ADV SADIQALI.M RESPONDENT: AUTHORIZED OFFICER, KERALA STATE CO-OPERATIVE BANK, AREEKODE- BRANCH, MALAPPURAM KERALA STATE CO-OPERATIVE BANK, AREEKODE-

BRANCH, MALAPPURAM, PIN - 673639 SRI.GILBERT GEORGE CORREYA THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 22nd day of December, 2023 The petitioner has approached this Court aggrieved by the coercive proceedings for recovery of financial advance made by the Kerala State Co-operative Bank to the petitioner, invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The Bank paid 18 lakhs to the petitioner as Over

Draft in the year 2015. The petitioner states that though the petitioner made remittances promptly during the initial repayment period of the financial advance, she could not pay the repayment instalments promptly later due to Covid-19 pandemic. The repayment of advance fell into arrears later. It happened due to reasons beyond the control of the petitioner.

3. Though the petitioner requested the Bank to permit the petitioner 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 petitioner states that she is still in a position to

clear the overdue amounts towards the advance, 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 petitioner, she will be put to untold hardship and loss.

5. Standing Counsel entered appearance on behalf of the Bank and denied all the statements made by the petitioner. On behalf of the respondent, it is submitted that the advance was given to the petitioner in the year 2015. The petitioner committed default in maintaining the advance.

6. The Bank repeatedly reminded the petitioner and

required her to clear the dues. The petitioner deliberately omitted to do so. In the circumstances, the Bank had no other go than to proceed against the petitioner invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,

2002. The impugned Exts.P1 and P2 were issued in these circumstances. The petitioner has not advanced any legal reasons to thwart the coercive proceedings initiated by the Bank.

7. The Standing Counsel, however, submitted that if

the petitioner is ready and willing to make a substantial payment soon and remit the balance outstanding amount immediately thereafter, a short breathing time can be granted to the petitioner to clear the dues. The Standing Counsel submitted that the outstanding amount due to the Bank from the petitioner as on 13.11.2023 is 53,20,081/-.

8. I have heard the counsel for the petitioner and the Standing Counsel representing the Bank.

9. The specific case of the petitioner is that the

petitioner has been making the repayment and maintaining the loan account initially. The default in repayment of the advance 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.

10. In the facts and circumstances 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.

11. The writ petition is therefore disposed of with the following directions:

(i) The petitioner shall remit an amount of 15 lakhs within a period of one month from today.

(ii) The petitioner shall remit the balance outstanding amount in subsequent consecutive 12 equal monthly instalments thereafter, along with accruing interest and other Bank charges, if any.

(iii) If the petitioner commits any default in making payments as directed above, the respondent will be at liberty to continue with the coercive proceedings against the petitioner in accordance with law.

(iv) If the petitioner makes payments as directed above, coercive proceedings, if any, against the petitioner shall stand deferred. Sd/- N.NAGARESH JUDGE

spk APPENDIX OF WP(C) 43833/2023 PETITIONER EXHIBITS Exhibit P 1 A TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT BANK DATED ON 14-2-2023 IS PRODUCED HEREWITH Exhibit P 2 A TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT DATED ON 21-10-2023 IS PRODUCED HEREWITH

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