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Sunitha C. vs the Authorised Officer

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Court : Kerala

Decided On : Jan-31-2020

Judge : Honourable Mr. Justice Alexander Thomas

Appeal No. : WP(C)/2768/2020

Appellant : Sunitha C.

Respondent : The Authorised Officer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS FRIDAY, THE 31ST DAY OF JANUARY 2020 / 11TH MAGHA, 1941 WP(C).No.2768 OF 2020(U) PETITIONERS: 1 SUNITHA C. TC 19/2138-1, MUDAVANMUKAL, POOJAPPURA P.O. 2 MADHUSOODHANAN NAIR, TC-19/2138-A, MUDAVANMUKAL, POOJAPPURA P.O. BY ADV. SRI.NAVEEN RADHAKRISHNAN RESPONDENT/S: THE AUTHORISED OFFICER/ASST GENERAL MANAGER KARAMANA CO-OPERATIVE URBAN BANK LTD.NO 1761, KARAMANA P.O., THIRUVANANTHAPURAM 695 002

OTHER PRESENT: SRI.R.S.KALKURA, SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31.01.2020, THE COURT ON THE

SAME DAY DELIVERED THE FOLLOWING: WP(C).No.2768 OF 2020(U) 2

ALEXANDER THOMAS, J.

W.P.(C.) No. 2768 of 2020 Dated this the 31st day of January, 2020

JUDGMENT

The prayers in the above W.P.(C.) are as follows :

(i) to issue a writ of certiorari and quash Exhibit P2 as illegal and arbitrary.

(ii) To issue such other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.

2. Heard Sri.Naveen Radhakrishnan, learned counsel appearing for the petitioner and Sri.R.S.Kalkura, learned counsel appearing for the respondent-Karamana Urban Co-operative Bank Ltd.

3. Sri.Naveen Radhakrishnan, learned counsel appearing for the

petitioner would submit that the total outstanding dues to be paid by the petitioner to the respondent bank as on 31.01.2020 comes to Rs.1,35,000/-. Sri.R.S.Kalkura, learned counsel appearing for the respondent - Karamana Urban Co-operative Bank ltd would submit that the respondent bank is prepared to give the petitioner one last opportunity to clear the outstanding dues in 2 equal monthly instalments, of which 1 st instalment shall be payable on or before 29.2.2020 and the 2nd instalment shall be payable on or before 31.3.2020, subject to the condition that the petitioner should also pay the applicable charges and interest thereon and should also clear the regular EMIs in time. Further the respondent would submit that in case the petitioner complies with the abovesaid directions, WP(C).No.2768 OF 2020(U) 3 then the impugned proceedings will be kept in abeyance and that in case the petitioner does not pay any of the instalments as aforementioned, then the bank will be at liberty to proceed further in the matter from the stage where it has stopped.

4. Accordingly, the following directions and orders are issued:

(i) The competent official of the respondent bank shall immediately furnish a

comprehensive and authenticated statement of account pertaining to the instant loan transaction in question showing the precise details thereof and the total dues to be cleared by the borrower as on the date of issuance of the said statement.

(ii) The petitioner shall clear the total oustanding overdues with all

applicable charges and interest in 2 equal monthly instalments of which 1st instalment shall be payable on or before 29.2.2020 and the 2 nd instalment shall be payable on or before 31.3.2020, subject to the condition that the petitioner should also pay the applicable charges and interest thereon. Further that the petitioner shall pay the regular EMI in time without fail.

(iii) In case the petitioner complies with the abovesaid directions, then the

impugned proceedings shall be kept in abeyance. Further in case the petitioner does not pay any of the instalments, then the respondent bank will be at liberty to proceed further with the impugned steps from the stage where it has stopped.

With these observations and directions, the Writ Petition (Civil) stands finally disposed of. Sd/- ALEXANDER THOMAS, JUDGE SKS WP(C).No.2768 OF 2020(U) 4 APPENDIX PETITIONER'S EXHIBITS : EXT.P1 TRUE COPY OF THE MC NO 1211/2019 BEFORE THE HON'BLE CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM UNDER SECTION 14(1) OF THE SARFAESI ACT, 2002

EXT.P2 TRUE COPY OF THE NOTICE DATED 24.1.2020 ISSUED TO THE PETITIONER BY THE ADVOCATE COMMISSIONER. EXT.P3 TRUE COPY OF THE REGISTRATION CARD OF PETITIONER FOR THE CANCER TREATMENT ISSUED BY RCC. RESPONDENT'S EXHIBITS : NIL

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