

(2023) 03 KL CK 0174

High Court Of Kerala

Case No: Original Petition (C) No. 594 Of 2023

Sabitha K.P.

APPELLANT

Vs

Calicut City Service Co-Operative
Bank Ltd

RESPONDENT

Date of Decision: March 17, 2023

Acts Referred:

- Constitution of India, 1950 - Article 227

Hon'ble Judges: C.S.Dias., J

Bench: Single Bench

Advocate: K.Rakesh, Swathi Kumar B.S., Anitha Ravindran

Final Decision: Disposed Of

Judgement

C.S.Dias., J

1. The original petition is filed to permit the petitioner to pay off the overdue amount to the first respondent in 20 equated monthly instalments and regularise the loan account.

2. The petitioner's case is that, she had availed a loan of Rs.14,00,000/- from the first respondent. The term of the loan was 120 months from 29.03.2017. However, the petitioner defaulted in repayment of the loan amount. The first respondent initiated arbitration proceedings against the petitioner, which culminated in Ext P1 award. The first respondent has laid the award to execution by filing E.P.No.51/2022 before the Court of the Subordinate Judge IA, Kozhikode, to realise an amount of Rs.21,52,656/-. It was due to the petitioner's precarious financial condition that she could not pay off the loan. Nevertheless, she is prepared to pay and clear the entire overdue amount in 20 equated monthly instalments.

3. The first respondent has filed a counter affidavit through its General Manager, inter alia, contending that the total liability of the petitioner as on 13.03.2023 is Rs.24,48,544/- and overdue amount is Rs.16,46,963/-. The term of the loan is up to 29.02.2027. From the experience of the first respondent, there is every chance of the petitioner defaulting in repayment of the overdue amount. Hence, the original petition may be dismissed.

4. Heard; Sri.K.Rakesh, the learned counsel appearing for the petitioner and Sri.B.S.Swathi Kumar, the learned counsel appearing for the first respondent.

5. On an evaluation of the pleadings and materials on record, and taking note of the fact that the term of the loan is up to 29.02.2027, and that the petitioner is prepared to pay off the overdue amount in 20 equated monthly instalments, I am of the opinion that a lenient view can be taken in the matter in order to give quietus to the litigation and permit the petitioner to pay off the overdue amount in equated monthly instalments. Thus, I am inclined to exercise the supervisory powers of this Court under Article 227 of the Constitution of India, by permitting the petitioner to pay off the overdue amount in the execution petition in monthly instalments.

Resultantly, I dispose of the original petition as follows:

(i) The Court of the Subordinate Judge IA, Kozhikode, is directed to defer further proceedings in E.P.No.51/2022.

(ii) The petitioner is permitted to pay off the overdue amount which as on 13.03.2023 is Rs.16,46,963/-with future interest in 15 equated monthly instalments, commencing from 17.04.2023.

(iii) If the petitioner deposits any amount as ordered by this Court, the same shall be released to the first respondent in accordance with law.

(iv) If the petitioner commits default in payment of two consecutive instalments, the Court of the Subordinate Judge IA, Kozhikode, is directed to revive E.P.No.51/2022 and proceed with the same, from the stage it has been stopped, in accordance with law, and bring it to its logical conclusion, as expeditiously as possible.