

A. Saifudeen Vs Indian Overseas Bank

Court: High Court Of Kerala

Date of Decision: June 5, 2023

Acts Referred: Constitution of India, 1950 " Article 226

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

Bench: Single Bench

Advocate: Arun Chand, Vinayak G Menon, Bharat Vijay P., Thareeq Anver K., K.Salma Jennath, Majid Muhammed K., Minu Vittoria Paulson, Sunil Shankar A, Vidya Gangadharan, Jerin George

Final Decision: Dismissed

Judgement

C.S.Dias, J

1. The writ petition is filed to direct the respondent to permit the petitioner to pay off the overdue amount in instalments and regularise the loan

account.

2. The petitioner's case is that, he has availed a cash credit facility from the respondent bank by creating an equitable mortgage. However, due to

unforeseen circumstances, he could not pay the instalments in time. The respondent bank has now proceeded against the secured asset under the

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, SRAE Act). The petitioner is prepared to

pay off the overdue amount in instalments. Hence, the writ petition.

3. Heard; Sri.Arun Chand, the learned counsel appearing for the petitioner and Sri.Sunil Sankar , the learned counsel appearing for the respondent.

4. Sri.Sunil Sankar, on instructions, submitted that this Court by interim order dated 05.05.2023 directed the petitioner to deposit an amount of Rs.3

lakh within a period of one month from the date of order. However, the petitioner has not complied with the said interim order.

5. The Hon'ble, Supreme, Court, in, South Indian Bank Ltd vs. Naveen Mathew Philip (2023 LiveLaw (SC) 320), after adverting to a

myriad of earlier judicial pronouncements rendered under the Act, has categorically declared that High Courts shall not, unless in extra ordinary

circumstances, interfere with proceedings initiated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security

Interest Act, 2002, in writ proceedings under Article 226 of the Constitution of India.

6. Having considered the pleadings and materials on record and taking note of the fact that the petitioner has not complied with the interim order dated

05.05.2023 as ordered by this Court, I am not inclined to exercise any discretion in favour of the petitioner by entertaining the writ petition under

Article 226 of the Constitution of India. Nonetheless, it is upto the petitioner to work out his statutory remedies in accordance with law.

Resultantly, the writ petition is dismissed without prejudice to the right of the petitioner to work out his statutory remedies in accordance with law.