

(2023) 06 KL CK 0023

High Court Of Kerala

Case No: Writ Petition (C) No. 14979 Of 2023

Siddique E.A

APPELLANT

Vs

State Bank Of India

RESPONDENT

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: B.Deepak, Karthik Bhavadasan, Amal George

Final Decision: Dismissed

Judgement

C.S.Dias, J

1. The writ petition is filed to direct the respondents to keep in abeyance all further proceedings pursuant to Ext.P2 notice and permit the petitioner to pay off the outstanding amounts in instalments.

2. The petitioner's case is that, he has availed a cash credit facility from the respondent bank in the year 2013. However, his business ran into acute financial crisis due to the Covid-19 pandemic. The bank has now proceeded against the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short, 'Act'). The petitioner is prepared to pay off the outstanding amounts in instalments. Hence, the writ petition.

3. Heard; Sri.B.Deepak, the learned counsel appearing for the petitioner and Sri. Amal George, the learned counsel appearing for the respondents.

4. Sri.B.Deepak, on instructions, submitted that pursuant to the interim order dated 05.05.2023, the petitioner has deposited an amount of Rs.4 lakh before the respondent bank. Therefore, the petitioner may be permitted to pay off the overdue amount in instalments.

5. Sri. Amal George, on instructions, submitted that as on 29.05.2023, the total outstanding comes to Rs.22,65,992/-. But as the petitioner has sold the hypothecated goods, without the consent and permission of the first respondent bank, the respondents are not willing to extend any instalment facility to the petitioner. It is upto the petitioner to work out his remedies before the Debt Recovery Tribunal in accordance with law.

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

7. Having considered the pleadings and materials on record and taking note of the submission made by the respective counsel appearing for the parties, I do not find any extraordinary circumstance to entertain the writ petition under Article 226 of the Constitution of India. Nonetheless, it is upto the petitioner to approach the Debt Recovery Tribunal and work out his remedies in accordance with law.

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