

(2010) 06 KL CK 0103

High Court Of Kerala

Case No: Writ Petition (C) No. 14189 of 2010 (W)

Mathen Mathew

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision: June 2, 2010

Acts Referred:

- Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) - Section 14(1)

Hon'ble Judges: P.R. Ramachandra Menon, J

Bench: Single Bench

Advocate: B. Renjithkumar, for the Appellant; K. Rajesh (Aroor), for the Respondent

Judgement

P.R. Ramachandra Menon, J.

The petitioner availed two loans from the respondent Bank for purchasing of two tipper lorries bearing No. KL.29/6964 and KL 29/3170. But the EMI of Rs. 20,970/- and Rs. 23,000/- in respect of the vehicles could not be effected on time, under which circumstances, the Bank proceeded with further steps for realisation of the due amount, invoking the provisions under the SARFAESI Act, which forms the subject matter of challenge in this Writ Petition.

2. The learned Counsel for the petitioner submits that the petitioner had approached the Bank for statement of accounts; but in vain. It is stated that the some Civil Suits are pending before the Munsiff's Court, Harippad and it is without any regard to the pendency of the said proceedings, that the Bank took steps for re-possession of the vehicles with the assistance of the District Magistrate, Alappuzha, as borne by Exts.P3 and P3(a) orders passed u/s 14(1) of the SARFAESI Act.

3. The learned Counsel for the respondent Bank, with reference to the counter affidavit, submits that the Writ Petition has been filed absolutely without any merit or bona fides and that the steps taken against the petitioner are perfectly within the

four walls of law and not assailable under any circumstances. The learned Counsel also submits that the petitioner is a person who is very much capable of clearing the liability; despite which, he is only trying to protract things. It is further stated that the total outstanding liability will come nearly Rs. 8,46,265/-; that the "overdue" amount itself will come nearly Rs. 4,80,385/- and that unless and until the petitioner clears the "overdue" amount, there can't be any question of regularisation.

4. After hearing both the sides, this Court finds that one more opportunity can be given to the petitioner to clear the "overdue" amount and to have the loan account regularised. Accordingly, the petitioner is permitted to clear the outstanding liability by way of "four" equal monthly instalments; the first of which shall be effected on or before the 25th of June, 2010; to be followed by similar instalments to be effected on or before the 25th of the succeeding months. This will be over and above the liability of the petitioner to satisfy the regular EMIs. It is made clear that in case of any failure to pay the "overdue" amount as above or if any two consecutive defaults are made in remitting the regular EMIs, the respondents will be free to proceed with further steps for realization of the entire amount in a lump sum including re-possession of the vehicles, in accordance with law.

5. In view of the wider tenure given to clear the overdue amount, the petitioner shall strictly adhere to the time schedule and no petition for enlargement of time will be entertained.

The Writ Petition is disposed of.