

(2012) 07 KL CK 0247

High Court Of Kerala

Case No: OP (DRT) . No. 2268 of 2012 (O)

M.M. James, Malayil House,
Muttam P.O. Thodupuzha -
685587 and Sunitha James,
Malayil House, Muttam P.O.
Thodupuzha - 685587

APPELLANT

Vs

The Authorised Officer, State
Bank of Travancore, Zonal Office,
Ernakulam- 682036 and The
Branch Manager, State Bank of
Travancore, Muttom,
Thundanganad, Adb Branch P.O.
Muttom - 685587

RESPONDENT

Date of Decision: July 19, 2012

Acts Referred:

- Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) - Section 31(i), 31(j)

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

Bench: Single Bench

Advocate: Dinesh R. Shenoy, Sri. G. Harikrishnan, Tripunithura, for the Appellant;
Santhosh Mathew, SC. Advocate, for the Respondent

Judgement

P.R. Ramachandra Menon, J.

The petitioners are before this Court mainly challenging the interim orders passed by the Tribunal, whereby a request made by the petitioners to grant some extension of time to satisfy the liability is not acceded to, except to an extent of granting time till 16.7.2012 also making it clear that, no forceful eviction shall be effected till such time. The sequence of events as narrated in the writ petition shows that the Bank proceeded with steps under the SARFAESI Act for realization of the amount stated as due under the loan transaction. The petitioners approached the Tribunal by filing

S.A.No.242/2012 raising many a ground, which was disposed of as per Ext.P2; directing to clear the entire liability on or before 19.05.2012; also intercepting the coercive proceedings till such time. Subsequently, the petitioner filed I.A.No.1526/2012 seeking time till 19.6.2012 to settle the entire liability. Favourable orders were passed by the Tribunal as borne by Ext.P3 dated 11.06.2012, enabling the parties to continue to occupy the building situated in the premises till 30.06.2012 and to have the entire liability settled in the mean time. It was thereafter that the petitioner filed yet another application as I.A. No. 1788/2012 praying to extend the time till 31.07.2012. After considering the sequence of events, the Tribunal extended the time as per Ext.P5 order dated 29.06.2012 till 16.07.2012, which made the petitioner to approach this Court for intercepting the coercive proceedings based on the dispute raised with reference to Section 31(j) and 31(i) of the SARFAESI Act.

2. Heard the learned counsel appearing for the Bank as well, who submits that the matter has become final as per Ex.P2 order passed by the Tribunal and that the subsequent grievance, if at all any, was with regard to the extension of time covered by Exts.P3 and P5 interim orders which cannot be sought to be widened by filing the present writ petition.

3. The learned counsel for the petitioners submits that the petitioners have taken earnest effort to see that some property of the petitioners is being sold and the entire liability would be cleared within no time. It is also stated that none of the contentions raised in the writ petition is sought to be pressed any further and that the petitioners only seek for a short time more, so as to enable them to effectively discharge the liability to the Bank by completing the sale. The learned counsel submits that the entire outstanding liability will be cleared within three months.

4. After hearing the learned counsel for the petitioner and the learned Standing Counsel of the Bank and also considering the fact that, out of the three loans, the major liability is in respect of the "housing loan"; the other two being an agricultural loan to an extent of Rs. 5 lakhs and Kissan Cash Credit to a similar extent of Rs. 5 lakhs, this Court finds it fit and proper to grant time to the petitioners to wipe out the entire liability till 30th of September, 2012. Subject to this, the recovery proceedings shall be kept in abeyance for the time being. If any default is committed in satisfying the liability as above, the petitioners shall effect vacant surrender of the premises immediately on raising demand by the Bank and it will be open for the Bank to proceed with further steps for realization of the entire amount in a lump, by pursuing such steps from the stage where it stands now.

Writ petition is disposed of.