

Madhavan @APPELLANT@Hash The Assistant Registrar Of Co-Operative Societies And Anr

Court: High Court Of Kerala

Date of Decision: March 1, 2018

Acts Referred: Constitution Of India, 1950 â€” Article 226

Hon'ble Judges: Anil K. Narendran, J

Bench: Single Bench

Advocate: Binoy Vasudevan, K.J.Anitha, K.Mohanakannan, A.R.Pravitha

Final Decision: Disposed Off

Judgement

1. The petitioner, who availed a loan for Rs. 4,50,000/- from the 2nd respondent Bank by mortgaging his property having an extent of 0.0243 hectares in

Re.Sy.No.740/4 of Koduvayoor Village, is before this Court in this writ petition filed under Article 226 of the Constitution of India, seeking a writ of

mandamus commanding the 2nd respondent to permit him to pay off the entire amount in 20 equal monthly instalments.

2. On 14.03.2016, when this writ petition came up for admission, the learned Government Pleader took notice for the 1st respondent. This Court issued

notice to the 2nd respondent by speed post.

3. Heard the learned counsel for the petitioner, the learned Senior Government Pleader appearing for the 1st respondent and also the learned counsel

appearing for the 2nd respondent Bank.

4. The learned counsel for the petitioner would submit that the petitioner is prepared to pay off the entire dues in respect of the loan transaction in

question in monthly instalments. It is also submitted that since the petitioner is a Coolie worker, a reasonable time may be granted to pay off the entire

dues.

5. The learned counsel for the 2nd respondent Bank would submit that the total liability as on the date of issuance of Ext.P3 demand notice, i.e., as on

16.06.2015, would come to Rs.6,73,000/- and if the petitioner is prepared to pay off the entire dues in monthly instalments, together with future

interest, the 2nd respondent Bank has no objection in this Court granting the petitioner a reasonable time for such payment. Having considered the

submissions made by the learned counsel on both sides, this writ petition is disposed of with the following directions :

1. The petitioner shall pay off the entire dues in respect of the loan transaction covered by Ext.P3 sale notice amounting to Rs. 6,73,000/-, together

with future interest from 16.06.2015 in 12 equal monthly instalments commencing from 12.03.2018 and the subsequent instalments payable on or

before the 12th day of the succeeding months.

2. If the petitioner is remitting the aforesaid instalments in time, without any default, all recovery proceedings pursuant to Ext.P3 shall be kept in

abeyance, so as to enable him to pay off the entire dues as above.

3. In case of any default committed by the petitioner in remitting any one of the aforesaid instalments, it would be open to the respondents to proceed

further with the coercive steps, in accordance with law.