

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

FRIDAY, THE 27TH DAY OF DECEMBER 2019 / 6TH Pousha, 1941

WP(C).No.35875 OF 2019(H)

PETITIONER/S:

ABDUL SALAM,
AGED 52 YEARS,
S/O.ABDUL KAREEM, CHARUVILA PUTHEN VEEDU, ATTORKONAM,
VELLINALLOOR VILLAGE, KOTTARAKARA, KOLLAM DISTRICT.

BY ADVS.
SRI.K.V.ANIL KUMAR
SMT.RADHIKA S.ANIL

RESPONDENT/S:

- 1 THE GENERAL MANAGER,
CO-OPERATIVE URBAN BANK LTD NO.1909, KOTTARAKARA,
KOLLAM DISTRICT-691 506.
- 2 THE AUTHORIZED OFFICER,
QUILON CO-OPERATIVE URBAN BANK LTD NO.1909,
KOTTARAKARA, KOLLAM DISTRICT-691 506.

R1 & R2 BY SMT.DEEPA.V, SC, KOTTARAKKARA CO.OP. URBAN
BANK LTD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27.12.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Challenge in this petition filed under Article 226 of the Constitution of India is to the measures initiated by the respondents against the petitioner under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI' for short).

2. Admittedly a loan was availed by the petitioner and default was committed. The respondents have initiated steps against the secured assets for realizing the amounts due.

3. The learned counsel appearing for the petitioner submitted that default was occasioned for reasons beyond the control of the petitioner. The solitary prayer is to afford the petitioner some time to wipe off the arrears and regularize the accounts.

4. Smt.Deepa Arun V., the learned Counsel appearing for the respondents submitted that the total accrued arrears as on date is Rs.9,23,000/-. According to the learned counsel, the bank is only interested in realizing the arrears and that too in an expeditious manner. On instructions it is submitted that if the petitioner deposits the accrued arrears in ten equal monthly installments commencing from 15.1.2020, the loan account can be regularised.

5. I am conscious of the pronouncements of the Hon'ble Supreme Court in **Union Bank of India v. Satyawati Tandon** [2010 (8) SCC 110] and in **Authorised Officer, State Bank of Travancore and Another v.**

Mathew K.C. [2018 (1) KLT 784] wherein it was categorically held that when alternate remedies are available, judicial propriety demands that this Court refrains from exercising powers either under Article 226 or 227 of the Constitution of India. However in view of the submission of the learned counsel appearing for the respondents that they are agreeable for providing an opportunity to salvage the property of the petitioner, I am of the view that a last and final indulgence can be shown.

6. In such circumstances, I direct the petitioner to pay off the overdue amount of Rs.9,23,000/- as on today, along with applicable charges and interest, in 10 equal monthly installments commencing from 15.1.2020. He shall simultaneously pay the regular EMIs as well, without fail. If such payment is made by the petitioner, his loan account would stand regularized. The petitioner will be permitted to service the account as per the terms of the sanctioned loan as it stood originally. It is made clear that if any default is committed in making the payment as directed above, the benefit granted under this judgment would stand vacated and the bank will be entitled to proceed to recover the amount.

This Writ Petition is disposed of as above.

sd/-

RAJA VIJAYARAGHAVAN V

JUDGE

