

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.K.ABDUL REHIM

MONDAY, THE 31ST JANUARY 2011 / 11TH MAGHA 1932

WP(C).No. 2243 of 2011(E)

PETITIONER(S):

**RAMAN K.K., S/O.K.I. KUNJAN,
MUNDACKAPARAMBIL HOUSE,
ARNOOTHIMANGALAM P.O., KADUTHURUTHY,
KOTTAYAM - 686 604.**

**BY ADV. SRI.A.K.HARIDAS,
SRIP.RAJEEV.**

RESPONDENT(S):

**HOUSING DEVELOPMENT FINANCE CORPORATION LMTIED,
HDFC HOUSE, P.O.NO.1667, RAVIPURAM JUNCTION,
MG ROAD, KOCHI-682 015, REPRESENTED BY ITS AUTHORIZED
OFFIER SRI.BABY JOSEPH, S/O.JOSEPH, LISSY HOUSE,
PANORAMA ENCLAVE, KADAVANTHARA, ERNAKULAM.**

**BY SRI.K.K.CHANDRAN PILLAI, SENIOR ADVOCATE,
ADV. SRI.A.S.SAJUSH PAUL,
SRI.THOMAS JAMES MUNDACKAL,
SRI.BOBBOY THOMAS,
SRI.M.L.JISHNU.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31/01/2011,THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs

C.K.ABDUL REHIM, J.

W.P.(C).No.2243 of 2011

Dated this the 31st day of January, 2011

J U D G M E N T

Consequent to default committed by the petitioner in repaying a housing loan availed from the respondent, steps were taken to proceed against the immovable property, which is the secured asset, by invoking Section 14(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). It is stated that the proceedings before the Chief Judicial Magistrate Court is now pending disposal. Grievance of the petitioner is that the coercive steps are now being pursued without considering the request for permitting regularisation of the loan account or without giving sufficient time to pay off the liability in instalments. Hence the petitioner seeks interference of this court.

2. Considering the fact that the petitioner has not raised any objection at the stage when demand was raised under Section 13(2) and that he has not invoked remedy available under Section 17(1) at the stage when steps were initiated under Section 13(4), this court may not be justified in interdicting with the proceedings.

3. Learned Standing Counsel for the respondent submitted that the loan in question was availed in the year 2005 with a repayment period of 15 years. But the petitioner committed consecutive defaults and the loan account now stands classified as 'NPA'. Even the outstanding arrears will come to more than Rs.46,000/-, is the submission.

4. Confronted with the above situation, counsel appearing for the petitioner appealed to this court to show indulgence in permitting regularisation of the account, on the basis of an undertaking that the petitioner is relinquishing all challenges against the proceedings and that he is not intending to pursue any of the statutory remedies.

5. Eventhough interference on merits is not proper, I am of the view that the limited prayer of the petitioner for regularisation can be allowed.

6. Accordingly the writ petition is disposed of directing the respondents to keep in abeyance all further steps for dispossession and sale of the property subject to condition of the petitioner remitting the entire amounts in default (defaulted instalments along with interest and expenses if any due) in 2 (two) equal monthly instalments, falling due on or before 28.2.2011 and on or before 31.3.2011, along with payment of regular EMIs due for the respective months.

7. If the amounts in default is paid as directed above, the respondents shall permit the petitioner to continue payment of future monthly instalments in accordance with the original schedule of repayment.

8. It is made clear that on the event of default in payment of any one of the instalments as stipulated or any future monthly instalments, the respondent will be at liberty to proceed with further steps and on such event the petitioner will be precluded from raising any subsequent challenge against such proceedings.

C.K.ABDUL REHIM, JUDGE.

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