

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

WEDNESDAY, THE 31ST DAY OF MAY 2023 / 10TH JYAISHTA, 1945

WP(C) NO. 15789 OF 2023

PETITIONER/S:

- 1 JOHNY.P.V
 AGED 50 YEARS
 S/O VARAPPAN.P.K, RESIDING AT PALAYUR HOUSE,
 PAZHAMUKKU, MUNDUR .P.O, THRISSUR DISTRICT, PIN -
 680541
- 2 NISHA JOHNY
 AGED 44 YEARS
 W/O JOHNY.P.K, RESIDING AT PALAYUR HOUSE, PAZHAMUKKU,
 MUNDUR .P.O, THRISSUR DISTRICT, PIN - 680541
 BY ADVS.
 K.R.AVINASH (KUNNATH)
 ABDUL RAOOF PALLIPATH
 PRAJIT RATNAKARAN
 E.MOHAMMED SHAFI

RESPONDENT/S:

- 1 THE AUTHORIZED OFFICER
 THE THRISSUR URBAN CO-OPERATIVE BANK LIMITED ,HEAD
 OFFICE ,MISSION QUARTERS , THRISSUR, PIN - 680001
- 2 THE BRANCH MANAGER
 THE THRISSUR URBAN CO-OPERATIVE BANK
 LIMITED ,PATTURAYKKAL BRANCH , PATTURAYKKAL.P.O,
 THRISSUR, PIN - 680008
 BY ADV Devaprasanth P.J

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31.05.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The writ petition is filed to direct the respondents to permit the petitioners to pay off the overdue amount in instalments.

2. The petitioners' case is that they had availed a loan from the 2nd respondent bank by creating an equitable mortgage. But, due to reasons beyond their control, they could not pay the EMIs on time. The 2nd respondent bank has initiated proceedings against the secured asset under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, 'Act'). The petitioners are prepared to pay off the overdue amount in instalments. Hence, the writ petition.

3. Heard; Sri. K.R. Avinash, the learned counsel appearing for the petitioners and Sri. D. Devaprasanth, the learned counsel appearing for the respondents.

4. Sri. Devaprasanth, on instructions, submitted that as on 29.5.2023 the overdue amount is Rs.8,52,451/-. The 2nd respondent is ready to accept the overdue amount

in six equated monthly instalments along with regular EMIs. The said submission is recorded. The learned counsel appearing for the petitioners submits that the petitioners are willing to accept the above offer.

5. Having considered the pleadings and materials on record, and in the light of the submissions made by the learned counsel appearing for parties, to provide the petitioners one last opportunity, I am inclined to exercise the powers of this Court under Article 226 of the Constitution of India and dispose of the writ petition. Resultantly, I dispose of the writ petition in the following manner:

(i) The respondents are directed to defer further coercive proceedings pursuant to Exts P1 and P2, to enable the petitioners to discharge the loan amount.

(ii) The petitioners are directed to pay the overdue amount, with future interest and costs, to the respondents in six equated monthly instalments commencing from 01.7.2023, along with regular EMIs.

(iii) Needless to mention, if the petitioners commit default

of the condition ordered above, they will lose the benefit of this judgment and the respondents would be at liberty to proceed with recovery proceedings from the stage it presently stands.

(iv) It is made clear that, no further application for modification/extension of time shall be entertained.

Sd/-

C.S.DIAS, JUDGE

okb/31.5.23

APPENDIX OF WP(C) 15789/2023

PETITIONER EXHIBITS

Exhibit P1

TRUE COPY OF THE NOTICE DATED 13.07.2021
UNDER SECTION 13(2) OF THE SECURITIZATION AND
RECONSTRUCTION OF FINANCIAL ASSETS AND
ENFORCEMENT OF SECURITY INTEREST (SARFAESI)
ACT 2002 ISSUED BY THE AUTHORIZED OFFICER OF
THE THRISSUR URBAN CO-OPERATIVE BANK LIMITED

Exhibit P2

TRUE COPY OF THE NOTICE 09.05.2023 HAS BEEN
ISSUED BY THE ADVOCATE COMMISSIONER IN CMP
NO: 45/2023 OF CHIEF JUDICIAL MAGISTRATE
COURT, THRISSUR