

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN

FRIDAY, THE 29TH DAY OF DECEMBER 2023 / 8TH POUSHA, 1945

WP(C) NO. 44300 OF 2023

PETITIONERS:

- 1 SMITHA RAJEEV KUMAR, AGED 42 YEARS, W/O. RAJEEV KUMAR, RESIDING AT NANDANAM, KAITHACKAL, ANAYADI P. O, ADOOR, PATHANAMTHITTA, PIN - 690 561
- 2 RAJEEV KUMAR, AGED 44 YEARS, S/O. GOPALAKRISHNAPILLA, RESIDING AT NANDANAM, KAITHACKAL, ANAYADI P.O, ADOOR, PATHANAMTHITTA, PIN - 690 561

BY ADVS.
B.J.JOHN PRAKASH
SOORAJ M.S.
VARSHA VIJAYAKUMAR NAIR
P.PRAMEL
COLIN ALEX

RESPONDENT:

CSB BANK (FORMERLY THE CATHOLIC SYRIAN BANK LTD.)
THE AUTHORIZED OFFICER AND CHIEF MANAGER-LAW,
ZONAL OFFICE, MALANKARA BUILDING COMPLEX,
PALAYAM, THIRUVANANTHAPURAM, PIN - 695 034

ADV. SRI.MADHU RADHAKRISHNAN SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 29.12.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

J U D G M E N T

The petitioners are aggrieved by Ext.P3 notice, which is issued by the respondent-bank for taking possession of the secured assets.

2. The learned counsel for the petitioner submits that as early as in the month of September-2023, the petitioners approached the respondent-bank seeking the benefit of an OTS Scheme. However, the same was not considered. Ultimately, on 27.12.2023, an OTS scheme was allowed, whereby, the petitioners are warranted to pay a sum of Rs.40 Lakhs on or before 30.12.2023. Having regard to the date on which the said decision was taken, i.e., 27.12.2023, the direction to pay the amount within three days is onerous, according to the learned counsel.

3. This writ petition was seriously opposed by the learned Standing Counsel for the

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respondent-bank, Sri.Madhu Radhakrishnan. A document dated 27.12.2023 in the nature of an agreement, containing the signature of the petitioners, is handed over to this Court, based upon which, learned counsel would submit that the petitioners have agreed to effect payment of Rs.40 Lakhs within 30.12.2023.

4. Having heard the learned counsel appearing on both sides, this Court is of the view that fifteen days' time more can be granted to the petitioners to effect the first instalment of Rs.40 Lakhs, which course is adopted based on equitable considerations. As regards the date stipulated for payment of the second instalment, it is clarified that there will not be any change and the same will remain as 15.03.2024.

Accordingly, this writ petition is disposed of granting the petitioners time upto 15.01.2024 for effecting the first instalment of Rs.40 Lakhs in terms of the letter dated 27.12.2023, a copy

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of which is hereby handed over to the learned counsel for the petitioners. In case, the first instalment in terms of the said letter is not effected within the extended period, it will be open for the respondent-bank to proceed against the petitioners and their assets in accordance with law.

Sd/-

C. JAYACHANDRAN

JUDGE

PR

APPENDIX OF WP(C) 44300/2023

PETITIONER EXHIBITS

Exhibit-P1	TRUE COPY OF THE S. A. NO. 180 OF 2023 WITHOUT THE ANNEXURE FILED BEFORE THE HON'BLE DRT-2 AT ERNAKULAM.
Exhibit-P2	TRUE COPY OF THE RECEIPT OF PAYMENT OF RS. 10,10,000/- (RUPEES TEN LAKHS AND TEN THOUSAND ONLY) ALONG WITH THE COMPROMISE AGREEMENT DATED 16.09.2023
Exhibit-P3	TRUE COPY OF THE LETTER DATED 22.12.2023 ISSUED BY THE RESPONDENT BANK
Exhibit-P4	TRUE COPY OF THE CERSAI SEARCH REPORT OBTAINED BY THE PETITIONERS
Exhibit-P5	TRUE COPY OF THE OTS SANCTION LETTER DATED 27.12.2023 ISSUED BY THE RESPONDENT BANK