

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC

TUESDAY, THE 25TH DAY OF SEPTEMBER 2012/3RD ASWINA 1934

WP(C) .No. 22090 of 2012 (I)

PETITIONER(S) :

K.K.KOSHY,
S/O. KOCHUKUNJU, KADAYIL VEEDU, PERUNGALAM
MANDROTHURUTH, KOLLAM.

BY ADV. SRI.B.MOHAN LAL

RESPONDENT(S) :

1. THE AUTHORIZED OFFICER ,
HOUSING DEVELOPMENT FINANCE CORPORATION LIMITED
H.D.F.C.HOUSE, VAZHUTHACAUD, THIRUVANANTHAPURAM-10.
 2. THE BRANCH MANAGER
HOUSING DEVELOPMENT FINANCE CORPORATION LIMITED
CHINNAKKADA, KOLLAM, PIN-691016.
- SRI. A.S.SAJUSH PAUL, FOR HDFC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25-09-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SU/-

WP(C) .No. 22090 of 2012 (I)

APPENDIX

PETITIONER(S) EXHIBITS

EXHIBIT P1- THE TRUE COPY OF THE PAYMENT DETAILS AND RECEIPT ISSUED BY
THE RESPONDENTS.

EXHIBIT P2- THE TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE
COMMISSIONER DATED 13-09-2012 TO THE PETITIONER.

RESPONDENTS' EXHIBITS : NIL.

/TRUE COPY/

P.A. TO JUDGE

SU/-

ANTONY DOMINIC,J

W.P.(C)No.22090 of 2012

Dated this the 25th day of September, 2012

JUDGMENT

Petitioner availed of a housing loan from the respondent bank. Default was committed and SARFAESI proceedings were initiated. In the proceedings, an order was obtained by the bank from the Chief Judicial Magistrate Court, Kollam and on the basis of that order, the Advocate Commissioner has issued Ext.P2 notice proposing to take over possession of the mortgaged asset. It is thereupon, this writ petition has been filed with a prayer to allow the petitioner to regularise the loan in question.

2. Instructions obtained by the standing counsel for the respondent bank shows that the loan of Rs.8.5 lakhs was obtained by the petitioner in the year 2006. On the account of the default committed in January, 2011 notice under Section 13 (2) of the SARFAESI Act was issued and that the petitioner approached the bank and the loan was regularized on his request. It is stated that in spite of it, again default was committed and that it was thereupon that the impugned

proceedings were initiated. Pointing out these facts, the counsel for the bank opposes the prayer of the petitioner.

3. Admittedly, petitioner is a chronic defaulter and in spite of the bank regularising the loan on one occasion, petitioner did not avail of that opportunity even. In such circumstances, I do not find anything irregular in the action of the bank.

4. Be that as it may, now that the petitioner wants to pay off the entire defaulted instalments, I see no reason why another opportunity should not be given to the petitioner.

Therefore, I direct that if the entire defaulted instalments and the current dues are paid within one week from today, the loan in question will be allowed to be regularised. In order to enable the petitioner to do so, I direct that coercive action will be deferred for one week from today and if the payment is not made as above, the bank will be free to continue the recovery action.

Writ Petition is disposed of as above.

ANTONY DOMINIC, JUDGE

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