



2024:KER:82008

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE D. K. SINGH

MONDAY, THE 4TH DAY OF NOVEMBER 2024 / 13TH KARTHIKA, 1946

WP (C) NO. 38717 OF 2024

PETITIONERS:

- 1 PRAKASH.K,
AGED 42 YEARS
S/O.KRISHNANKUTTY, DHARASAIKUNNU HOUSE, CHEKKAKONAM PO,
KARAKULAM AZHEEKODE, THIRUVANANTHAPURAM, PIN - 695564
- 2 GREESHA V T,
AGED 38 YEARS
W/O.PRAKASH, 20/575, SHALOM, KAILAYAM, CHEKKAKONAM PO,
KARAKULAM AZHEEKODE, THIRUVANANTHAPURAM, PIN - 695564

BY ADVS.
K.MOHANAKANNAN
NAVANEETH D.PAI

RESPONDENTS:

- 1 THE AUTHORISED OFFICER,
STATE BANK OF INDIA, STRESSED ASSETS RECOVERY BRANCH, 1ST
FLOOR(SRB) ,STATE BANK OF INDIA, LMS COMPOUND,
THIRUVANANTHAPURAM, PIN - 695033
- 2 THE BRANCH MANAGER,
STATE BANK OF INDIA VIKAS BHAVAN BRANCH, THIRUVANANTHAPURAM,
PIN - 695033

SMT.S. LAKSHMI-SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
04.11.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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JUDGMENT

Dated this the 4th day of November, 2024

The present Writ Petition has been filed seeking the following prayers:

- i. To issue a writ of certiorari, or appropriate Writ order or direction calling for the records leading to Ext.P1 and quash the same;
- ii. To issue a writ of mandamus, or appropriate Writ order or direction directing the Respondent to regularize the loan availed off by the Petitioners on clearing the overdues in installments;
- iii. To issue a writ of mandamus, or appropriate Writ order or direction directing the Respondents not to evict the Petitioners from the secured assets ;
- iv. to dispense with filing of the translation of vernacular documents;
- v. To grant such other relief as this Hon'ble Court deem fit to grant in the interest of justice.

2. The petitioners had availed a housing loan of Rs.31,50,000/- from the respondent bank in the year 2021. The said loan liability has to be discharged along with interest up to 2036. The petitioners have defaulted in repaying the loan taken from the respondent bank. Therefore, the bank, after classifying the petitioners' loan



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account as NPA, has proceeded under the provisions of the SARFAESI Act and Rules made thereunder.

3. The learned counsel for the bank submits that the bank has recalled the loan and filed O.A. before the Debts Recovery Tribunal. As of today, the overdue amount is Rs.3,50,000/- and the total outstanding amount is Rs.33,88,357/-.

4. However, considering the fact that the repayment tenure is up to 2036, it would be appropriate to grant the petitioners some time to make payment of the overdue amount along with the regular instalments.

5. In view thereof, the present writ petition is disposed of in the following terms:

- i. The petitioners shall pay an upfront amount of Rs.2,00,000/- along with one regular instalment on or before 15.11.2024 and the remaining overdue amount in 8 equal monthly instalments, along with the regular instalments. The 1st instalment is to be paid on or before 15.12.2024,



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and the remaining 7 instalments on or before the 15th day of each succeeding month.

- ii. Once the petitioners pay the entire overdue amount, the bank shall regularize the loan account of the petitioners.
- iii. In case of failure to make payment of Rs.2,00,000/- or any subsequent instalments as directed above, the bank shall be free to proceed further against the petitioners for realizing the outstanding loan amount.
- iv. In case the petitioners make the payment, the DRT shall not proceed with the OA. However, if the petitioners' default in making payment, the DRT may go ahead with O.A.

With the aforesaid directions, the present writ petition stands finally disposed of.

Sd/-

D. K.SINGH

JUDGE

AP



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APPENDIX OF WP (C) 38717/2024

PETITIONER EXHIBITS

Exhibit P1

TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE
COMMISSIONER, USHMILY.L DATED 4-10-2024