

Kerala High Court

Lalitha Mohan vs The Authorised Officer (The Chief on 31 May, 2010)

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 16715 of 2010(L)

1. LALITHA MOHAN, W/O.C.MOHANDAS,
... Petitioner

Vs

1. THE AUTHORISED OFFICER (THE CHIEF
... Respondent

For Petitioner :SRI.A.B.MOHANAKUMAR

For Respondent : No Appearance

The Hon'ble MR. Justice P.R.RAMACHANDRA MENON

Dated :31/05/2010

O R D E R

P.R.RAMACHANDRA MENON, J

WP(C) NO. 16715 OF 2010

Dated this the 31st day of May, 2010

JUDGMENT

The petitioner is aggrieved of the coercive steps taken by the respondent, particularly causing Ext.P4 order to be issued by the concerned Chief Judicial Magistrate, Thiruvananthapuram in an application by the Bank under Section 14 of the SARFAESI Act, whereby the possession of the building and premises is ordered to be taken over by appointing an Advocate Commissioner in this regard.

2. The case of the petitioner is that the petitioner had availed a loan of Rs.5,00,000/- from the respondent Bank in the year 2006, which however could not be repaid on time, by way of regular instalments as scheduled. When the Bank proceed with steps under the SARFAESI Act, the petitioner was compelled to approach this Court earlier by filing WP(C) 25339/2009 for enabling

the petitioner to clear the liability towards the overdue amount, in respect of the defaulted instalments and to have the loan account regularised, which led to Ext.P1 judgment. Pursuant to Ext.P1 verdict, the petitioner effected various payments as borne by Ext.P2 receipts and the respondent Bank furnished Ext.P3 statement as ordered by this Court. The learned counsel for the petitioner submits that there is absolutely no rhyme or reason for proceeding with further steps WP(C) No. 16715/2010 against the petitioner and that the entire outstanding liability, which is nearly Rs.3,80,500/- as revealed from Ext.P3, will be cleared within no time. It is pointed out that the petitioner does not intend to challenge the sustainability of steps taken by the Bank either by approaching the DRT under Section 17 of the Act or otherwise and the only relief now pressed before this Court is to permit the petitioner to clear the outstanding liability by way of three equal monthly instalments.

3. Heard the learned standing counsel for the Bank as well, who brought to the notice of this Court that a cheque was already issued by the petitioner in respect of some defaulted instalments, which however was returned dishonoured for want of sufficiency of funds and this has been taken note of in Ext.P4 by the learned Magistrate. However, the contention of the petitioner is that the petitioner does not want to have the loan account regularised any further and that the prayer is only to give some breathing time to wipe off the entire liability under the loan transaction.

4. In the above circumstances, particularly with regard to the limited nature of the prayer, to permit the petitioner to clear the liability in a phased manner, the petitioner is directed to clear the outstanding liability by way of 'three' equal monthly instalments, the first of which shall be effected on or before the 30th of June, 2010; to be followed by similar instalments to be effected on or before the 30th of the succeeding months. WP(C) No. 16715/2010 Subject to this, the recovery proceedings stated as being pursued against the petitioner shall be kept in abeyance. It is also made clear that, if any default is committed by the petitioner in satisfying the liability as above, the respondent will be at liberty to proceed with further steps for realisation of the entire amount in a lump sum, by pursuing such steps from the stage where it stands now. It is also made clear that the petitioner will not be entitled to get further enlargement of time under any circumstance.

The Writ Petition is disposed of accordingly.

P.R.RAMACHANDRA MENON JUDGE dnc