IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 04TH DAY OF FEBRUARY 2020 / 15TH MAGHA, 1941

WP(C).No.2108 OF 2020(K)

PETITIONER/S:

PUSHPAVALLY,
AGED 50 YEARS
D/O. GOPALAN, MANNANTHARA, KIZHAKKATHIL, PUTHENTHURA P. O., NEENDAKKARA, KOLLAM - 691 582.

BY ADVS.
SMT.T.RESHMA
SRI.BIJITH S.KHAN

RESPONDENT/S:

1 **THE KERALA STATE CO-OPERATIVE BANK LTD, KOLLAM BRANCH, WATER AUTHORITY BUILDING, ANANDAVALLEESWARAM, KOLLAM - 691 001., REPRESENTED BY ITS SENIOR MANAGER.**

2 **THE AUTHORIZED OFFICER**
THE KERALA STATE CO-OP. BANK LTD., KOLLAM BRANCH, KOLLAM - 691 001.

OTHER PRESENT:

SRI.GILBERT GEORGE CORREYA, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04.02.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ALEXANDER THOMAS, J.

W.P.(C.) No. 2108 of 2020

Dated this the 4th day of February, 2020

JUDGMENT

The prayers in the above W.P.(C.) are as follows :

> *(i) to declare that the petitioner is entitled to repay the arrears as on date along with the future installments as and when it falls due and that the respondents are legally bound to accept the same ;*
> *(ii) issue a writ of mandamus or any other appropriate writ, order or direction, directing commanding and compelling the respondents to allow the petitioner to pay the arrears as on date in 12 monthly installments along with a future monthly installments as and when it falls due and also direct the respondents to drop all proceedings initiated against her;*
> *(iii) issue a writ of certiorari or any other appropriate writ, order or direction calling for the records leading to Exts.P1 and quash the same and all proceedings initiated pursuant to the same;*
> *(v) issue such other writ, order or direction, as this Hon'ble Court may deem fit in the fact and circumstance of the case."*

2. Heard Smt.T.Reshma, learned counsel appearing for the petitioner and Sri.Gilbert George Correya, learned standing counsel appearing for the respondents- Kerala State Co-operative Bank ltd.

3. Sri.Gilbert George Correya, learned counsel appearing for the respondents-Kerala State Co-operative Bank Ltd. would submit on the basis of instructions of the party that the overdues to be cleared by the petitioner as on 31.1.2020 for regularization of the loan account in this case is Rs.1,43,283/- and that as the period of the loan is to expire by 30.11.2020, the respondent bank is prepared to give the petitioner one last opportunity to enable him to clear the overdues in 3 equal monthly

instalments subject to the petitioner pays all the applicable charges and interest thereon and shall also pays the regular EMIs in time and the stringent default conditions.

4. The counsel for the petitioner submits that the instalment may be extended upto 10 instalments. After hearing both sides, due to the persuasion made by this Court, it appears that the respondent bank may not appear to have very serious objection in giving the petitioner 5 equal monthly instalments suggested by this Court, of which the 1st instalment shall be payable on or before 10.3.2020 and further 4 instalments shall be payable on or before the last day of the months concerned i.e. on or before 31.3.2020, 30.4.2020, 31.5.2020 and 30.6.2020 respectively, subject to the condition that the petitioner pays all the applicable charges and interest thereon and clears the regular EMIs in time.

5. Until the expiry of the said time limit, the respondent bank may keep in abeyance further coercive steps in pursuance to the impugned proceedings. However, in case the petitioner does not complies with anyone of the abovesaid conditions or commits default in anyone of the said instalments, including the regular EMIs, then the respondent bank may proceed further with the impugned proceedings from the stage where it has been stopped. On the other hand, if the petitioner complies with all the abovesaid conditions, then the bank may take steps to regularise the loan account of the petitioner.

6. Accordingly, the following directions and orders are issued:

(i) *The competent official of the respondent bank shall immediately furnish a comprehensive and authenticated statement of account pertaining to the instant loan transaction in question showing the precise details thereof and the total dues to be cleared by the borrower as on the date of issuance of the said statement.*

(ii) *The petitioner shall clear the entire overdue amounts with all applicable charges and interest in 5 equal monthly instalments of which the 1st instalment shall be payable on or before 10.03.2020 and further 4 instalments shall be payable on or before the last day of the months concerned ie., 31.3.2020, 30.4.2020, 31.5.2020 and 30.6.2020. Further that the petitioner shall pay the regular EMI in time without fail.*

(iii) *In case the petitioner complies with the abovesaid directions, then the impugned proceedings shall be kept in abeyance. Further in case the petitioner does not pay any of the instalments, then the respondent bank will be at liberty to proceed further with the impugned steps from the stage where it has stopped.*

With these observations and directions, the Writ Petition (Civil) stands finally disposed of.

Sd/-

ALEXANDER THOMAS,
JUDGE

SKS

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**THE TRUE COPY OF THE NOTICE OF THE ADVOCATE COMMISSIONER DATED 9.1.2020.**