



2025:KER:26084

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

WEDNESDAY, THE 26TH DAY OF MARCH 2025 / 5TH CHAITHRA, 1947

WP(C) NO. 12131 OF 2025

PETITIONER:

ANILKUMAR R,
AGED 59 YEARS, S/O. K. RAMAN PILLAI,
PNRA E45C, SREEPADMAM, SREEKRISHNA LANE,
KOWDIAR P.O., THIRUVANANTHAPURAM, PIN - 695 003.

BY ADVS.

C.HARIKUMAR
SANDRA SUNNY
FARAH JYOTHI PRADEEP
ARUN KUMAR M.A

RESPONDENTS:

- 1 THE AUTHORIZED OFFICER,
CANARA BANK, ASSET RECOVERY MANAGEMENT BRANCH 2ND
FLOOR, CANARA BANK BUILDING CHITTOOR ROAD,
ERNAKULAM SOUTH, ERNAKULAM, PIN - 682 016.
- 2 CANARA BANK,
ASSET RECOVERY MANAGEMENT BRANCH, 2ND FLOOR,
CANARA BANK BUILDING CHITTOOR ROAD,
ERNAKULAM SOUTH, ERNAKULAM REPRESENTED BY ITS
SENIOR BRANCH MANAGER, PIN - 682 016.

BY ADV. M.GOPIKRISHNAN NAMBIAR, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 26.03.2025, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner obtained several credit facilities from the respondent bank. On default being committed proceedings were initiated against the petitioner under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) to recover the amounts due. Pending the proceedings, the petitioner was offered a One Time Settlement (OTS) for settling the entire liability on paying a sum of Rs.2.37 Crores in the manner set out in Ext.P3. Though the petitioner paid a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) as an upfront amount in a non lien account, the petitioner could not pay the balance amount.

2. According to the learned counsel appearing for the respondent bank, the failure to adhere to the terms of the OTS resulted in the cancellation of the OTS. It is also the submission of the learned counsel appearing for the respondent bank that the total liability of the petitioner is



approximately Rs.7crores. The learned counsel also submits that going by the law laid down by the Division Bench in ***State Bank of India v. Sham; 2024(6) KLT 865***, the petitioner has no right to seek modification of the terms of OTS by filing a writ petition under Article 226 of the Constitution of India. It is submitted that the property of the petitioner was scheduled to be sold on 25-03-2025. However, it is reported that no sale took place.

3. Faced with this situation, the learned counsel appearing for the petitioner submits that since the sale could not take place on 25-03-2025, the petitioner may be permitted to approach the respondent bank with a revised offer for OTS.

4. The learned counsel appearing for the respondent bank has no objection.

Accordingly, this writ petition will stand disposed of, directing that if the petitioner were to submit a fresh proposal for OTS within a period of one week from today (26-03-2025), the competent authority of the respondent



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bank shall take a decision on such proposal. Till such time as a decision is taken on the proposal to be submitted by the petitioner, the property of the petitioner, which was subject matter of Ext.P6, shall not be notified for sale again.

**Sd/-
GOPINATH P.
JUDGE**

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APPENDIX OF WP(C) 12131/2025

PETITIONER'S EXHIBITS

- | | |
|-------------------|---|
| EXHIBIT P1 | THE TRUE COPY OF THE NOTICE ISSUED BY
THE 1ST RESPONDENT TO THE PETITIONER
DATED 09.10.2024 |
| EXHIBIT P2 | THE TRUE COPY OF THE REPRESENTATION
SUBMITTED BY M/S. LALITH & ASSOCIATES
BEFORE THE 2ND RESPONDENT DATED
26.11.2024 |
| EXHIBIT P3 | THE TRUE COPY OF THE NOTICE ISSUED BY
THE 2ND RESPONDENT TO THE PETITIONER
DATED 11.12.2024 |
| EXHIBIT P4 | THE TRUE COPY OF THE REPRESENTATION
SUBMITTED BY THE M/S. LALITH &
ASSOCIATES BEFORE THE 2ND RESPONDENT
DATED 25.02.2025 |
| EXHIBIT P5 | THE TRUE COPY OF THE NOTICE ISSUED BY
THE 1ST RESPONDENT TO THE PETITIONER
DATED 07.02.2025 |
| EXHIBIT P6 | THE TRUE COPY OF THE NOTICE ISSUED BY
THE 1ST RESPONDENT TO THE PETITIONER
DATED 01.03.2025 |