



2025:KER:15991

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

MONDAY, THE 24TH DAY OF FEBRUARY 2025 / 5TH PHALGUNA, 1946

WP(C) NO. 7411 OF 2025

PETITIONERS:

- 1 ASWATHI BASANI
AGED 45 YEARS, W/O ANIMON PANAMOOTTIL
AZHEEKKAL ALAPPAD KOLLAM
NR AAYIRAM THENG BRIDGE
KARTHIKAPPALLY, PIN - 690547.
- 2 ANIMON
AGED 51 YEARS, PANAMOOTTIL AZHEEKKAL
ALAPPAD KOLLAM NR AAYIRAM THENG BRIDGE
KARTHIKAPPALLY, PIN - 690547.

BY ADVS.
O.MINCY
SHINCE TOM
ANANDHU RAJEEV
GOPIKA A.

RESPONDENTS:

- 1 CHOLAMANDALAM INVESTMENT AND FINANCE COMPANY LTD
AUTHORIZED OFFICER AVENUE CENTRE BEACH RD NEAR
KANNAN VARKEY BRIDGE KODIVEEDU ALAPPUZHA,
PIN - 688001.

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2 CHOLAMANDALAM INVESTMENT AND FINANCE CO LTD
REP.BYTHE AUTHORIZED OFFICER,
AVENUE CENTRE BEACH RD
NEAR KANNAN VARKEY BRIDGE KODIVEEDU
ALAPPUZHA, PIN - 688001.

BY ADV.PAULCHAN ANTONY, STANDING COUNSEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 24.02.2025, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



J U D G M E N T

Dated this the 24th day of February, 2025

The petitioners have approached this Court aggrieved by the coercive proceedings for recovery of financial advance made by the respondents to the petitioners, invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The respondents paid ₹18 lakhs to the petitioners as loan in the year 2021. The petitioners state that though the petitioners made remittances promptly during the initial repayment period of the financial advance, they could not pay the instalments promptly later. The repayment of loan fell into arrears. It happened due to reasons beyond the control of the petitioners.



3. Though the petitioners requested the respondents to permit the petitioners to repay the overdue amounts in easy monthly instalments, the respondents were not yielding. The authorities, instead, started coercive proceedings, invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Security Interest (Enforcement) Rules, 2002 and issued Exts.P1 to P3 notices.

4. The petitioners state that they are still in a position to clear the overdue amounts towards the loan, if sufficient time is given to clear the dues in easy monthly instalments. If the respondents are permitted to continue with the coercive proceedings and auction the secured assets provided by the petitioners, they will be put to untold hardship and loss.

5. Standing Counsel entered appearance on behalf of the respondents and denied all the statements made



by the petitioners. On behalf of the respondents, it is submitted that the loan was given to the petitioners in the year 2021. The petitioners committed default in repaying the loan.

6. The respondents repeatedly reminded the petitioners and required them to clear the dues. The petitioners deliberately omitted to do so. In the circumstances, the respondents had no other go than to proceed against the petitioners invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The impugned Exts.P1 to P3 notices was issued in these circumstances. The petitioners have not advanced any legal reasons to thwart the coercive proceedings initiated by the respondents.

7. The Standing Counsel, however, submitted that if the petitioners are ready and willing to make a substantial payment soon and remit the balance overdue amount immediately thereafter, a short breathing time can be granted to



the petitioners to clear the dues. The Standing Counsel submitted that the outstanding amount due to the respondents from the petitioners is ₹27,24,463/- and the overdue amount as on 21.02.2025 is ₹6,70,508/-.

8. I have heard the learned Counsel for the petitioners and the learned Standing Counsel representing the respondents.

9. The specific case of the petitioners is that the petitioners have been making the repayment and maintaining the loan account initially. The default in repayment occurred lately due to reasons beyond the control of the petitioners. The petitioners have provided substantial security which will safeguard the interest of the respondents.

10. In the facts and circumstances of the case, I am inclined to dispose of the writ petition giving a short and reasonable time to the petitioners to clear off the liability.



11. The writ petition is therefore disposed of with the following directions:

- (i) The petitioners shall remit an amount of ₹1.5 lakh within one month from today.
- (ii) The petitioners shall remit the balance overdue amount in subsequent consecutive eight equal monthly instalments thereafter, along with accruing interest and other administrative charges, if any.
- (iii) If the petitioners commit default in making payments as directed above, the respondents will be at liberty to continue with coercive proceedings against the petitioners in accordance with law.
- (iv) The petitioners shall also pay current EMIs along with the aforesaid payments.

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(v) If the petitioners make payments as directed above, coercive proceedings, if any, against the petitioners shall stand deferred.

Sd/-
N. NAGARESH
JUDGE

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APPENDIX OF WP(C) 7411/2025

PETITIONER EXHIBITS

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| Exhibit P1 | A TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE RESPONDENT BANK TO THE PETITIONER, DATED 27/08/2024 |
| Exhibit P2 | A TRUE COPY OF THE POSSESSION ISSUED BY THE RESPONDENT BANK TO THE PETITIONER, DATED 12/11/2024, |
| Exhibit P3 | . A TRUE COPY OF THE NOTICE BY THE ADVOCATE COMMISSIONER TO THE PETITIONER, DATED 08/02/2025 |
| Exhibit P4 | A TRUE COPY OF THE MEDICAL CERTIFICATES |