

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

OP (DRT).No. 34 of 2015 (O)

IA.NO.1897/2012 IN SA 562/2012 OF DEBT RECOVERY TRIBUNAL, ERNAKULAM
.....

PETITIONER(S):

**DOMINIC THANIKKAL, AGED 46 YEARS,
S/O.VARGHESE, PROPRIETOR, G.G.M. INDUSTRIES,
THANIKKAL HOUSE, NEAR K.S.E.B., P.O. ERUMAPETTY,
KUNNAMKULAM, THRISSUR - 680 584.**

**BY ADVS.SRI.N.N.SUGUNAPALAN (SR.)
SRI.M.R.VENUGOPAL
SMT.DHANYA PASHOKAN**

RESPONDENT(S):

- 1. STATE BANK OF INDIA,
KUNNAMKULAM BRANCH, REPRESENTED BY ITS MANAGER,
P.O. KUNNAMKULAM, THRISSUR DISTRICT - 680 019.**
- 2. THE CHIEF MANAGER (RURAL),
(THE AUTHORISED OFFICER) STATE BANK OF INDIA,
REGIONAL BUSINESS OFFICE, P.O. THRISSUR - 680 001.**
- 3. LISSY DOMINIC,
THANIKKAL HOUSE, P.O ERUMAPETTY,
THRISSUR DISTRICT - 680 584.**
- 4. SANKARAN EZHUTHACHAN,
AYYAPPAN PARAMBIL HOUSE, P.O. KILLANNUR,
THRISSUR DISTRICT - 680 581.**

BY ADV. SRI.S.EASWARAN

**THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR
ADMISSION ON 09-06-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

OP (DRT).No. 34 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. TRUE COPY OF NOTICE DATED 1.2.10 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P2. TRUE COPY OF MINUTES OF THE JOINT MEETING DATED 2.9.10.

EXHIBIT P3. TRUE COPY OF STATEMENT OF ACCOUNT.

EXHIBIT P4. TRUE COPY OF LETTER DATED 25.3.11.

EXHIBIT P5. TRUE COPY OF LETTER DATED 17.6.11.

EXHIBIT P6. TRUE COPY OF THE MINUTES OF THE JOINT MEETING DATED 22.6.11.

EXHIBIT P7. TRUE COPY OF THE MATHRUBHUMI DAILY DATED 29.2.12.

EXHIBIT P8. TRUE COPY OF NOTICE DATED 19.08.14.

EXHIBIT P9. TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER TO EXT P8.

**EXHIBIT P10.TRUE COPY OF THE ORDER DATED 20.11.14 IN IA 1897/12 IN SA 562/12 ON
THE FILE OF DRT ERNAKULAM.**

**EXHIBIT P11.TRUE COPY OF THE SA 562/12 ALONG WITH AMENDMENT PETITION FILED
BY THE PETITIONER BEFORE DRT, ERNAKULAM.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

O.P.(DRT).No. 34 of 2015

Dated this the 9th day of June, 2015

J U D G M E N T

The petitioner impugns Ext.P10 order passed by the Debts Recovery Tribunal, Ernakulam in I.A. No. 1897 of 2012 in S.A. No.562/2012. The main challenge before the Tribunal in S.A. No.562 itself is regarding demand notice under Section 13 (2) of the SARFAESI Act. The Tribunal in fact originally granted interim stay against further steps. This has been vacated as per the impugned order (Ext.P10).

2. This Court cannot entertain the challenge against Ext.P10 in this original petition. The petitioner has an alternate remedy before the Tribunal.

3. However, the learned Senior Counsel for the petitioner would submit that he has filed an amendment petition by Ext.P11 and that was not considered while disposing Ext.P10 order. It is further submitted that the contention raised in the amendment petition would have a fundamental bearing in the

outcome of the Interlocutory Application and Securitisation Application itself. Therefore, proceedings under Ext.P10 has to be reconsidered.

3. The learned counsel for the bank would submit that the I.A. for amendment has already been allowed. Therefore, there is no point in reviewing the earlier order which was essentially passed based on the contention raised in the above Interlocutory Application filed for obtaining stay.

4. This Court while entertaining the writ petition directed the petitioner to deposit Rs.10 lakhs. It is submitted that Rs.10 lakhs has been deposited as per the the above direction.

5. I am of the view, in the Securitisation Application, the only issue is based on the grounds now sought in amended application as well as the legality of the demand notice under Section 13(2) of the SARFAESI Act, therefore, the Tribunal shall dispose of the entire matter within a period of four months from today.

6. In view of the fact that Rs.10 lakhs has been deposited

by the petitioner, the SARFAESI proceedings against the petitioner shall be kept in abeyance till the disposal of this Securitisation Application.

The original petition is disposed of as above.

sd

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/