

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

OP (DRT).No. 54 of 2015 (O)

IN OA 213/2000 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

PETITIONER(S) :

P.ARJUNAN,
SASEENDRAM, VENG P.O., SASTHAMCOTTA,
KOLLAM DISTRICT - 690 569.

BY ADVS.SRI.K.MANOJ CHANDRAN
SRI.P.R.AJITHKUMAR.

RESPONDENT(S) :

1. THE RECOVERY OFFICER,
DEBTS RECOVERY TRIBUNAL,
ERNAKULAM, KOCHI -16.
2. THE AUTHORISED OFFICER,
HDFC BANK, REMEDIAL MANAGEMENT UNIT, FIRST FLOOR
CHOICE TOWERS, MANORAMA JUNCTION, ERNAKULAM-16.
3. THE MANAGER,
HDFC BANK LIMITED, KOLLAM - 691 001.
4. T.K. GEORGE VAIDIAN,
S/O.T.K.K. VAIDIAN, THENVILAYIL HOUSE, THEVALAKKARA,
KOLLAM - 691 001.
5. Lyla ALEKUTTY VALSAN,
W/O. GEORGE VAIDIAN, THENGUVILAYIL HOUSE, THEVALAKKARA,
KOLLAM - 691 001.

R2 BY ADV. SRI.LEO GEORGE,
BY GOVERNMENT PLEADER SMT.M.T.SHEEBA &
R BY SRI.T.RAJESH.

THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR ADMISSION
ON 27-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT-P1- TRUE COPY OF THE ORDER DATED 19/06/202 .
EXHIBIT-P2- TRUE COPY OF THE RECOVERY CERTIFICATE AS DRC NO. 937 DATED
26/08/2002 .
EXHIBIT-P3- TRUE COPY OF THE TAKE DELIVERY LETTER DATED 21/02/1995 .
EXHIBIT-P4- TRUE COPY OF THE LETTER DATED 16/01/2007 .
EXHIBIT-P5- TRUE COPY OF THE LETTER NO. A 156/06 DATED 18/01/2007 .
EXHIBIT-P6- TRUE COPY OF THE LETTER NO. DB12/4112/1998 DATED 16/01/2007 .
EXHIBIT-P7- TRUE COPY OF THE JDUGMENT DATED 20/08/2007 IN W.P(C) 20995/2007 .
EXHIBIT-P8- TRUE COPY OF THE SHOW CAUSE NOTICE DATED 26/12/2008 .
EXHIBIT-P9- TRUE COPY OF THE REPLY DATED 16/02/2009 .
EXHIBIT-P10- TRUE COPY OF THE NOTICE DATED 01/09/2010 .
EXHIBIT-P11- TRUE COPY OF THE REPLY DATED 11/02/2011 .
EXHIBIT-P12- TRUE COPY OF THE LETTER DATED 19/12/2011 .
EXHIBIT-P13- TRUE COPY OF THE REPRESENTATION DATED 04/04/2012 .
EXHIBIT-P14- TRUE COPY OF THE REPRESENTATION DATED 12/12/2012 .
EXHIBIT-P15- TRUE COPY OF THE PROCLAMATION OF SALE DATED 10/03/2015 .
EXHIBIT-P16- TRUE COPY OF THE REPRESENTATION DATED 15/06/2015 .
EXHIBIT-P17- TRUE COPY OF THE PROCLAMATION OF SALE DATED 17/06/2015 .

RESPONDENT(S) ' EXHIBITS:

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A. MUHAMED MUSTAQUE, J.

O.P.(DRT). No. 54 of 2015

Dated this the 27th day of July, 2015

J U D G M E N T

The petitioner has approached this Court challenging proceedings initiated by the respondent Bank to put the property belonging to the petitioner for sale. It appears that petitioner has approached this Court earlier in WP(C) No.20995/2007 and this Court directed the Bank to proceed against the property of defaulter and in case defaulter's property is not sufficient, the Bank can also proceed against the petitioner's property. The petitioner has also grievance against the sale price fixed for the property.

2. It is submitted by the learned counsel for the Bank that the property now available is only, that of the petitioner and the petitioner is a guarantor and no other property other than petitioner's property is available to satisfy this liability. It is to be noted that liability of the petitioner is co-extensive with the principal borrower, even though the petitioner is a guarantor. The matter is now being proceeded based on the recovery certificate issued by the DRT and matter is now pending before the Recovery

Officer, DRT.

3. This Court is of the view that, the liability being fixed under Recovery Certificate issued by the DRT, this Court cannot invoke the power under Article 226 of the Constitution to interfere with the same and that the petitioner is at liberty to challenge the same, if otherwise aggrieved, in appropriate manner.

With that observation this writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn