

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

OP (DRT).No. 84 of 2015 (O)

(IA.NO.1313/2015 IN SA.NO. 306/2014 OF DEBT RECOVERY TRIBUNAL, ERNAKULAM)

PETITIONER(S):

- 1. M/S. SANDEEPANI SMART VILLAGE,
BUILDING NO.V/334, MANJAPRA,
NEAR AKKUNNU TEMPLE, ANGAMALY-683 581,
REP. BY ITS MANAGING PARTNER MR. REGHUNATH.A.T.**
- 2. REGHUNATH.A.T., AICKARA HOUSE, MANJAPRA.P.O.,
ANGAMALY-683 581**

**BY ADVS.SRI.DINESH R.SHENOY
SMT.K.K.JYOTHILAKSHMY**

RESPONDENT(S):

- 1. THE SYNDICATE BANK,
REPRESENTED BY THE CHIEF MANAGER (RECOVERY CELL)
SHANMUGHAM ROAD, COCHIN-682 031**
- 2. THE SENIOR BRANCH MANAGER, SYNDICATE BANK LTD.,
JANATHA BUILDING, CHURCH JUNCTION, ANGAMALY BRANCH,
ERNAKULAM-683 572**
- 3. THE AUTHORISED OFFICER & CHIEF MANAGER,
SYNDICATE BANK, ASSET RECOVERY MANAGEMENT BRANCH,
VAKKACHAN TOWERS, CHITTOOR ROAD, VADUTHALA,
COCHIN-682 023**
- 4. BRAHMACHARI PRAKASH, 5/49,
MATHA AMRUTHANANDAMAYI MATH, AMRUTHA PURI,
KOLLAM-691 001**

R1 TO R3 BY SRI.R.S. KALKURA, SC, SYNDICATE BANK

**THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR ADMISSION
ON 24-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE VALUATION REPORT OBTAINED BY THE 2ND RESPONDENT DATED 28/9/2009**
- P2 COPY OF THE LETTER NO.4308/ROE/REC/MPV/534 DATED 21/5/2011**
- P3 COPY OF THE LETTER DATED 10/10/2011 ISSUED BY THE PETITIONER.**
- P4 COPY OF THE LETTER DATED 13/10/2011 ISSUED BY THE 2ND RESPONDENT**
- P5 COPY OF THE LETTER DATED 22/10/2011 ISSUED BY THE 2ND RESPONDENT**
- P6 COPY OF THE LETTER NO.4313/OTS-SSV/442/2012 DATED 22/11/2012**
- P7 COPY OF THE LETTER DATED 24/11/2012 ISSUED BY 2ND RESPONDENT BANK**
- P8 COPY OF THE LETTER DATED 16/7/2014 ISSUED BY THE PETITIONERS TO THE 2ND RESPONDENT OFFERING ONE TIME SETTLEMENT.**
- P9 COPY OF THE NOTICE NO.4313-157-10 DATED 16/7/2014 ISSUED BY THE 3RD RESPONDENT**
- P10 COPY OF THE CORRECTED AUCTION NOTICE DATED 23/7/2014**
- P11 COPY OF THE ORDER DATED 3/9/2014 IN SA.NO.306/2014, DRT, ERNAKULAM**
- P12 COPY OF THE ORDER DATED 10/10/2014 IN IA.NO.2272 AND 2773 OF 2014 IN S.A.NO.306/2014, DEBT RECOVERY TRIBUNAL, ERNAKULAM**
- P13 COPY OF THE JUDGMENT DATED 6/4/2015 IN WP(C).NO.9168/2015, HIGH COURT OF KERALA**
- P14 COPY OF THE ORDER DATED 10/6/2015 IN IA.NO.1313/2015 IN SA.NO.306/2014, DRT, ERNAKULAM**
- P15 COPY OF THE CRL.MP.NO.2428/2015 CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM FILED BY THE RESPONDENT BANK**
- P16 COPY OF THE COUNTER AFFIDAVIT FILED BY THE BANK BEFORE THIS HON'BLE COURT IN WP(C).NO.14724/2015**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

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P.A.TO JUDGE

A.MUHAMED MUSTAQUE, J.

O.P.(DRT). No. 84 of 2015

Dated this the 24th day of June, 2015.

J U D G M E N T

The petitioners who are the applicants in I.A. No.1313/2015 in S.A. No.306/2014 on the files of the DRT, are before this Court. I.A.No.1313/2015 is filed against steps being proceeded under the SARFAESI Act. The DRT ordered as follows:

“The respondent bank is directed to defer from taking coercive possession of the secured asset *if and only if* a sum of Rs.1.75 crores is deposited by the petitioners with the respondent bank in a *no lien* account within 15 days from today, making it clear that if the direction of this Tribunal is not scrupulously complied with by the petitioners, the respondent bank shall be at liberty to surge ahead with their further SARFAESI measures in accordance with law, subjecting their actions to the outcome of the SA. It is further made clear that this Tribunal will not entertain any more IAs in the SA or by way of time enlargement application for compliance of the direction passed by this Tribunal today as it would have to be then viewed only as a dilly dally tactics of the applicant in the above S.A. Call on 01.07.2015 for reporting compliance and for apprising about the developments before the Hon'ble Court of Kerala. Handover.”

2. The petitioners submits that they are prepared to

comply with the direction to remit Rs.1.75 crores, if they have given some time for the same. They further submits that they have entered into a sale agreement with a buyer and the buyer already advanced Rs.40 lakhs, which is prepared to deposit at any moment before the Tribunal or the Bank. It is further submitted that, on account of rider that no further application for enlargement would be entertained by the Tribunal, they are unable to comply with the entire direction of the DRT.

3. The learned counsel for the Bank opposes the prayer of the petitioners and submits that, there are series of writ petitions in this matter and Bank was unable to realise the entire amount. It is further submitted that the 4th respondent already auctioned the property and deposited the entire amount and that sale certificate has been issued and on account of pendency of these proceedings they were unable to take possession of the property.

4. The learned counsel for the 4th respondent also reiterated the same contention as put forward by the learned counsel for the Bank. It is submitted that he has already invested huge amount and any delay in this matter would frustrate the purchase made by him. It is further submitted that this Court in another writ petition has ordered execution of

sale deed in favour of the 4th respondent.

5. I am of the view that, if the petitioners have any grievance the petitioners can challenge the order in appropriate manner in appropriate proceedings. If petitioners seek for enlargement, I am of the view that it is also open for the petitioners to approach the DRT. The observation of the Tribunal that, it will not entertain any more I.As in the S.A. by way of time enlargement will not stand in the way of such application. Any Tribunal has the power and control over the entire proceedings till its culmination. The merit of the reasons to be decided based on the application filed in appropriate manner for enlargement.

With the above observation this O.P.(DRT) is disposed of. To enable the petitioners to work out alternate remedies, the interim order of the Tribunal will continue for another one week.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.