

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

OP (DRT).No. 87 of 2015 (O)

(OA 288/2001 of DEBT RECOVERY TRIBUNAL, ERNAKULAM)

PETITIONER(S):

- 1. THANKAVELU,
AGED 64 YEARS, S/O. NACHUMUTHU CHETTIYAR, ANGALA NIVAS
MARATH LANE, THRISSUR DISTRICT-680001.**
- 2. V.T.JAYALAKSHMI,
AGED 59 YEARS, W/O. THANKAVELU, ANGALA NIVAS
MARATH LANE, THRISSUR DISTRICT- 680001.**

BY ADV. SRI.B.RAMACHANDRAN

RESPONDENT(S):

- 1. BANK OF INDIA,
THRISSUR BRANCH, VADAKKEMADAM BUILDING, M.G.ROAD
THRISSUR- 680001.**
- 2. P.K.ASHARAF,
S/O. P.K.KUNJU, PUTHENVEETIL HOUSE, KOORUKKANCHERRY
THRISSUR DISTRICT- 680001.**

R2 BY SRI.BABU CHERUKARA

**THIS OP (DEBT RECOVERY TRIBUNAL) HAVING BEEN FINALLY HEARD
ON 13-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

vmr.

OP (DRT).No. 87 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : A TRUE COPY OF JUDGMENT DATED 17-11-2009 IN WPC.NO.30417/2009.

P2 : A TRUE COPY OF THE JUDGMENT DATED 19-10-2010 IN WPC.NO.19018/2010

P3 : A TRUE COPY OF JUDGMENT IN WA.NO.401/2011 DATED 24-3-2011.

**P4 : A TRUE COPY OF ORDER DATED 12-3-2015 IN IA.NO.991/2011 OF THE
HONOURABLE DEBT TRIBUNAL, ERNAKULAM.**

P5 : A TRUE COPY OF NOTICE DATED 17-4-2015.

P6 : A TRUE COPY OF OBJECTIONS FILED BY THE PETITIONERS DATED 30-5-2015.

P7 : A TRUE COPY OF ORDER DATED 8-6-2015 OF THE RECOVERY OFFICER.

P8 : A TRUE COPY OF NOTICE DATED 19-6-2015.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.S.TO JUDGE

vmr.

A.MUHAMED MUSTAQUE, J.

O.P.(DRT) No.87 of 2015

Dated this the 13th day of July, 2015

J U D G M E N T

The petitioners, aggrieved by Ext.P4 order passed by the Debts Recovery Tribunal, Ernakulam while dismissing the application for condonation of delay in setting aside the sale, have approached this Court. The petitioners also challenge the appointment of an Advocate Commissioner by the Recovery Officer consequent upon Ext.P4 to deliver the property to the auction purchaser.

2. The petitioners admit that, they have approached Debt Recovery Appellate Tribunal, Chennai by challenging Ext.P4 order.

3. The learned counsel for the auction purchaser submits that, this writ petition is not maintainable, since the petitioners having an efficacious alternative remedy as against Ext.P4 order.

4. This Court is of the view that, as far as Ext.P4 order is concerned, the petitioners have to challenge the same before the DRAT and any relief in relation to Ext.P4 can be only sought before the DRAT. However, as apprehended by the petitioners that, the delivery would be taken before challenge being made before the DRAT, this Court is of the view, to work out above relief, Ext.P7 proceedings shall be deferred for a period of two months from today.

This writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.