IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

OP (DRT).No. 88 of 2015 (O)

(SA.NO.180/2015 OF DEBTS RECOVERY TRIBUNAL, ERNAKULAM)

PETITIONER(S):

1. **E.K.JOSE,**
   ELANJICKAL HOUSE, VIKAS NAGAR,
   MUVATTUPUZHA.

2. **REETHAMMA MATHEW,**
   W/O.E.K.JOSE, ELANJICKAL HOUSE, VIKAS NAGAR,
   MUVATTUPUZHA.

3. **JOSEPH J. KUNJITHOMMEN,**
   PROPRIETOR, M/S. KEECHERIKUDIYIL AGENCIES,
   ELANJICKAL HOUSE, VIKAS NAGAR, MUVATTUPUZHA.

BY ADVS.SRI.K.I.MAYANKUTTY MATHER
SRI.R.JAIKRISHNA

RESPONDENT(S):

1. **STATE BANK OF TRAVANCORE,**
   REPRESENTED BY ITS BRANCH MANAGER,
   MUVATTUPUZHA BRANCH, PIN -686 673

2. **AUTHORIZED OFFICER/CHIEF MANAGER (SARFAESI ACT),**
   STATE BANK OF TRAVANCORE, MUVATTUPUZHA -686 673

BY SRI.SANTHOSH MATHEW,SC
SRI.SATHISH NINAN

THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR ADMISSION ON 01-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

OP (DRT).No. 88 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: TRUE COPY OF SECTION 13(2) NOTICE ISSUED TO THE 1ST PETITIONER DATED 02.07.2014

P1A : TRUE COPY OF SECTION 13(2) NOTICE ISSUED TO THE 3RD PETITIONER DATED 02.07.2014

P2: TRUE COPY OF THE POSSESSION NOTICE ISSUED UNDER RULE 8(1) OF SARFAESI RULES TO THE 1ST PETITIONER DATED 06.11.2014

P2 A: TRUE COPY OF THE POSSESSION NOTICE ISSUED UNDER RULE 8(1) OF SARFAESI RULES TO THE 2ND PETITIONER DATED 06.11.2014

P3: TRUE COPY OF THE SALE NOTICE ISSUED UNDER RULE 8(6) OF THE SARFAESI RULES DATED 27.03.2015

P3 A: TRUE COPY OF THE SALE NOTICE PUBLISHED IN INDIAN EXPRESS DAILY DATED 26.03.2015

P4: TRUE COPY OF THE ORDER OF THE DEBT RECOVERY TRIBUNAL, ERNAKULAM IN SA.180/2015 DATED 28.04.2015

P5: TRUE COPY OF THE TIME ENLARGEMENT ORDER PASSED BY THE DEBT RECOVERY TRIBUNAL, ERNAKULAM DATED 02.06.2015

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

O.P.(DRT) No.88 of 2015

Dated this the 1st day of July, 2015

J U D G M E N T

The petitioners impugn 'SARFAESI' proceedings in this writ petition.

2. The petitioners' only prayer before this Court is that, they may be given three more months time to wipe off the entire outstanding liabilities for the reason that, they are attempting to liquidate the liability through private sale.

3. The learned Standing Counsel for the Bank opposes the prayer of the petitioners and submits that, the petitioners have already approached this Court in an earlier occasion by filing writ petition and the same was withdrawn with liberty to approach the Debt Recovery Tribunal. It is also submitted that, the petitioners have approached DRT in S.A.No.180/2015 and the DRT ordered conditional stay.

4. It appears that, the petitioners have not complied with the conditions in the stay order. However, taking note of the facts and circumstances, I am of the view that, the time sought by the petitioners is reasonable and they should be given time to wipe off the liability.

5. However, as rightly pointed out by the learned Standing Counsel for the Bank, if the petitioners are given three months time,

they cannot prosecute DRT simultaneously in Securitisation Application. In that view of the matter, this writ petition is disposed of with the following directions :

1. The petitioners are given three months time from today to wipe off the entire liability.
2. The petitioners shall withdraw the S.A.No.180/2015 in view of the time given by this Court.
3. Till the time as above exhausted, no coercive steps shall be taken against the petitioners.
4. If the petitioners fail to honour their commitment within the time, the Bank is free to proceed against the petitioners.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV