

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

OP (DRT).No. 100 of 2015 (O)

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AGAINST THE ORDER/JUDGMENT IN SA 737/2013 of DEBT RECOVERY
TRIBUNAL, ERNAKULAM**

PETITIONER(S):

- 1. VAJAYAKUMAR, AGED 45 YEARS
S/O. VASU PILLAI, LALITHA VILASAM, KALIPARA
NEYYARDAM P.O., THIRUVANANTHAPURAM-695 572.**
- 2. U.NITHYA, AGED 40 YEARS
W/O. V.AJAYAKUMAR, LALITHA VILASAM, KALIPARA,
NEYYARDAM P.O., THIRUVANANTHAPURAM-695 572.**

**BY ADVS.SRI.ZAKEER HUSSAIN
SRI.MOHAMMED RAFIQ**

RESPONDENT(S):

- 1. THE CHIEF MANAGER & AUTHORISED OFFICER
FEDERAL BANK LTD., ZONAL OFFICE, STATUE
THIRUVANANTHAPURAM-695 001.**
- 2. THE BRANCH MANAGER
FEDERAL BANK LIMITED, AMBOORI BRANCH, AMBOORI
THIRUVANANTHAPURAM-695 505.**

**R1 BY ADV.SRI.A.ANTONY, SC
R1 BY ADV.SMT.LEELAMMA ANTONY**

**THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR
ADMISSION ON 02-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

OP (DRT).No. 100 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 : COPY OF THE CERTIFICATE DTD.5.11.2013 ISSUED BY THE AGRICULTURAL OFFICER, KRISHI BHAVAN, KALLIKKADU, MYLAKKARA.

EXT.P2 : COPY OF THE ORDER DTD.11.11.2013.

EXT.P3 : COPY OF THE NOTICE ISSUED BY THE CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM IN MC NO.563 OF 2013.

EXT.P4 : COPY OF THE WARRANT DTD.16.7.2015 ISSUED BY THE CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM IN MC NO.563 OF 2013.

EXT.P5 : COPY OF THE LETTER DTD.22.7.2015 SUBMITTED BY THE ADVOCATE COMMISSIONER BEFORE THE SUB INSPECTOR OF POLICE, NEYYAR DAM POLICE STATION.

EXT.P6 : COPY OF THE PETITION TO REVIVE AND EXTEND THE EXT.P2 INTERIM ORDER.

EXT.P7 : COPY OF THE ADVANCE PETITION.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

O.P.(DRT).NO.100 OF 2015 (O)

Dated this the 2nd day of September, 2015

J U D G M E N T

The petitioners, who had availed of a loan from the respondent bank, and were aggrieved by the steps taken by the respondent bank for recovery of the defaulted loan amounts in terms of the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, have approached the Debt Recovery Tribunal [DRT], Ernakulam, through S.A.No.737/2013, which is stated to be pending before the DRT, Ernakulam. It is stated by the petitioners that, in the said S.A., the DRT had initially granted an interim order staying further proceedings pursuant to the order of the Chief Judicial Magistrate, Thiruvananthapuram, to take physical possession of the secured assets at the instance of the respondent bank. It is further stated that the said interim order passed by the DRT expired on 12.8.2014, and this fact escaped the notice of the petitioners. When they came to know of the fact of expiry of the said interim order, the petitioners filed Ext.P6 interlocutory application [I.A.] seeking revival and extension of the interim order passed in I.A.No.3192/2013 in S.A.No.737/2013. Ext.P6 I.A. has not been

considered by the DRT till date. In the present original petition, the limited prayer of the petitioners is for a direction to the DRT, Ernakulam to expeditiously consider and pass orders on Ext.P6 I.A. that is pending before the DRT, Ernakulam, after hearing them, and to keep in abeyance further steps initiated by the respondent bank for taking possession of the immovable property of the petitioners, in the meanwhile.

2. I have heard the learned counsel for the petitioners as also the learned Standing counsel for the respondent bank.

3. The learned Standing counsel for the respondent bank would vehemently oppose the prayer of the petitioners and would submit that any direction from this Court to the DRT for consideration of Ext.P6 application can only be made subject to terms since the order of stay had expired as early as in August, 2014, and the petitioners did not take any steps to get the order revived till July, 2015.

4. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I am of the view that the ends of justice would be served by directing the DRT, Ernakulam, to

consider and pass orders on Ext.P6 application, that has been filed by the petitioners before it, for reviving and extending the interim order passed by the Tribunal in I.A.No.3192/2013 in S.A.No.737/2013. The respondent bank can raise its objections against an unconditional extension of the interim order and put forward its case, for extending the interim order subject to terms, before the DRT, Ernakulam, at the time of consideration of Ext.P6 application by the said Forum. I therefore direct the DRT, Ernakulam, to consider and pass orders on Ext.P6 application preferred by the petitioners, within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioners as also the respondent bank. I make it clear that, till such time as orders are passed by the DRT, Ernakulam, on Ext.P6 application as directed, further proceedings, pursuant to Ext.P4 warrant, as against the petitioners, shall be kept in abeyance.

The Original Petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp