IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

WA.No. 1584 of 2013 () IN WP(C).10864/2013

AGAINST THE JUDGMENT IN WP(C) 10864/2013 of HIGH COURT OF KERALA
DATED 13-08-2013

APPELLANT(S)/RESPONDENTS:
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1. THE ASSISTANT GENERAL MANAGER,
   STATE BANK OF INDIA, STRESSED ASSETS RECOVERY BRANCH
   R.S BUILDINGS, M.G ROAD, ERNAKULAM 682 011

2. STATE BANK OF INDIA,
   SHANMUGHAM ROAD BRANCH, ERNAKULAM 682 031
   REPRESENTED BY ITS MANAGER

BY ADVS.SRI.GEORGE THOMAS (MEVADA)(SR.)
SRI.MANU GEORGE KURUVILLA
SRI.AMAL GEORGE

RESPONDENT(S)/PETITIONER:

VENU P.R., AGED 40 YEARS
S/O.RAMACHANDRAN, 313, KALATHIL HOUSE
KADAKKARAPPALLY, CHERTHALA 688 529

R1 BY ADV. SRI.G.HARIHARAN
R1 BY ADV. SRI.PRAVEEN.H.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 12-08-2015, ALONG WITH W.A.1623/13, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WA.1584/13

APPELLANT'S EXHIBITS:

ANNEXURE I: TRUE PHOTOCOPY OF THE ORDER IN SLA NO.37726/13 PASSED BY THE HON'BLE SUPREME COURT DATED 14.7.2014.

ANNEXURE II: TRUE PHOTOCOPY OF THE GUIDELINES FRAMED BY STATE BANK OF INDIA DATED 13.2.2014.

/TRUE COPY/

PS TO JUDGE

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

W.A.Nos.1584 & 1623 of 2013

Dated this the 12th day of August, 2015

JUDGMENT

Antony Dominic, J.

1. These appeals are filed by the State Bank of India calling in question the legality of the common judgment of the learned single Judge in W.P(C). 10864/13 and 17081/13.

2. The writ petitions were filed by the respondents who were borrowers of the appellant bank and against whom proceedings under the SARFAESI Act were initiated. In the course of such proceedings, the bank took steps to publish the photographs of the respondents in newspapers and it was at that stage, the writ petitions were filed challenging the said action of the bank.

3. By the judgment under appeal, learned single Judge held that the bank did not have the entitlement to publish photographs as, according to the learned Judge, the said action of the bank would be violative of the fundamental rights guaranteed to the borrowers

under Article 21 of the Constitution of India. Learned Judge disposed of the writ petitions, prohibiting the bank from publishing the photographs of the borrowers and at the same time, giving it liberty to proceed against the defaulters in accordance with law.

4. When these appeals were taken up for hearing, learned senior counsel appearing for the bank invited our attention to circular No.CCO/CPPD-ADV/144/2013-14 dated 13.2.2014, whereby, the bank had issued detailed guidelines for publication of photographs of defaulter borrowers/guarantors. Among the detailed provisions that are incorporated in the guidelines, clause No.4 provides that in the case of loan accounts with outstanding below ₹25 lakhs, publication of photographs of defaulter borrowers/ guarantors shall not be resorted to. The guidelines also provide that in respect of educational loans, under no circumstances, the photographs of the students will be published and that in all cases, an advance notice of not less than 15 days in the format

appended shall be issued and in case objection is raised to such notice, the same will be considered carefully on a case to case basis and it is only thereafter, further action will be taken.

5. In so far as these appeals are concerned, the outstanding in the account which is the subject matter of W.A.1584/13 is far less than ₹25 lakhs specified in clause 4 referred to above. Similarly, the liability which is the subject matter of W.A.1623/13 has already been settled between the parties, which was also less than ₹25 lakhs. In such circumstances, having regard to the provisions of the guidelines referred to above, the bank cannot proceed with publication of the photographs of the defaulters.

In the aforesaid circumstances and also taking note of the subsequent developments resulting in the publication of the guidelines, we do not think it necessary to go into the merits of the contentions raised before us. Therefore, we dispose of these appeals recording the above and leaving open the contentions raised by the bank before us.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
SHAJI P. CHALY, Judge.

kkb.