

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

WA.No. 1386 of 2015 () IN WP(C).9168/2015

**AGAINST THE ORDER/JUDGMENT IN WP(C) 9168/2015 of HIGH COURT OF KERALA
DATED 06-04-2015**

APPELLANT(S)/LEAVE PETITIONERS:

- 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
SRI.SANIL JOSE**

RESPONDENT(S)/PETITIONER & RESPONDENTS 1&2:

- 1. BRAHMACHARI PRAKASH
5/49, MATHA AMRITHANANDAMAYI MATH
AMRITHAPURI ALAPAD VILLAGE, KARUNAGAPPALLY, KOLLAM.**
 - 2. THE SYNDICATE BANK
REPRESENTED BY ITS CHIEF MANAGER
(RECOVERY CELL) SHANMUGHAM ROAD
KOCHI-682 031.**
 - 3. THE AUTHORISED OFFICER AND CHIEF MANAGER
SYNDICATE BANK, ASSET RECOVERY MANAGEMENT BRANCH
VAKKACHAN TOWERS, CHITTOOR ROAD, VADUTHALA
COCHIN- 682 023.**
- R2 &3 BY ADV. SRI.R.S.KALKURA, SC, SYNDICATE BANK.
R1 BY SRI.R.KRISHNA RAJ**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 23-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WA NO.1386/15

APPENDIX

APPELLANTS' EXHIBITS

ANNEXURE A1: TRUE PHOTOCOPY OF VALUATION REPORT DT 28/9/2009.

ANNEXURE A2: TRUE PHOTOCOPY OF ONE TIME SETTLEMENT LETTER DATED 21/5/2011.

ANNEXURE A3: TRUE PHOTOCOPY OF LETTER DATED 22/11/2012.

ANNEXURE A4: TRUE PHOTOCOPY OF ORDER OF DEBTS RECOVERY TRIBUNAL, ERNAKULAM DATED 3/9/2014 IN SA NO.306/2014.

ANNEXURE A5: TRUE PHOTOCOPY OF CRL.MP NO.2428/2015 CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM FILED BY THE RESPONDENT BANK.

ANNEXURE A6: TRUE PHOTOCOPY OF ORDER DT 10/6/2015 IN IA NO.1313/2015 IN SANO.306/2014.

ANNEXUR A7: TRUE PHOTOCOPY OF THE JUDGMENT IN OP(DRT) NO.84/2015 DATED 24/6/2015, HIGH COURT OF KERALA.

//True Copy//

PS to Judge

Rp

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.A. No. 1386 of 2015

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Dated this, the 23rd day of July, 2015

J U D G M E N T

Ashok Bhushan, C.J.

Heard the learned counsel for the appellants as well as the learned counsel appearing for the Bank and the 1st respondent.

2. This writ appeal has been filed against judgment dated 6th April, 2015 in WP(C) No.9168/15. Writ petition was filed by the auction purchaser who was the highest bidder in a sale conducted under the SARFAESI Act, 2002. Petitioner had filed the writ petition seeking direction for execution of sale deed and handing over possession consequent to the auction held on 4/9/2014. The writ petition has been disposed of by the learned Single Judge. While disposing of the writ petition, learned Single Judge has made the following observations;

“Thus without prejudice to the orders that may be passed by the Debt Recovery Tribunal in the S.A pending before it, the writ petition is disposed with a direction to the respondent bank to complete the sale proceedings initiated by the respondent bank,

-:2:-

by executing the sale deed in respect of the property described in Ext.P1 sale notice, in favour of the petitioner, at the risk and cost of the petitioner.

The writ petition is disposed as above”.

3. The appellant, who is the debtor, has come up in the writ appeal challenging the judgment passed by the learned Single Judge. Learned counsel for the appellants submits that the Debts Recovery Tribunal has already passed a conditional interim order, and the conditions have already been complied by the appellants and the matter is pending consideration before the Debts Recovery Tribunal.

4. We have considered the submissions of the learned counsel for the parties and perused the records.

5. Learned Single Judge has already observed as noted above that without prejudice to the orders that may be passed by the Debts Recovery Tribunal in the S.A pending before it, the writ petition was disposed of. Thus, the right of the appellants were fully protected by the aforesaid observation. In our view of the matter, we see no reason to entertain this writ appeal in order to find any such error in the judgment of the learned Single Judge which may warrant interference in exercise of appellate

W.A.No.1386/15

-:3:-

jurisdiction. The matter having already taken before the Debts Recovery Tribunal by an application, the said application will be decided in accordance with law.

With these observations, the writ appeal is dismissed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

//True Copy//

PS to Judge