

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

WA.No. 1425 of 2015 () IN RP.547/2014

**AGAINST THE ORDER/JUDGMENT IN RP 547/2014 of HIGH COURT OF KERALA DATED
01-10-2014**

APPELLANT(S)/REVIEW PETITIONER/3RD PARTY:

**RADHAKRISHNA KURIES PVT.LTD.,
GURUVAYUR, REPRESENTED BY
CHAIRMAN PREMANANDHAN, AGED 49 YEARS,
S/O SRENIVASASN, PULICKAL HOUSE,
POOKODE VILLAGE,
CHAVAKKAD TALUK,
THRISSUR DISTRICT.**

BY ADV. SRI.RAJIT

RESPONDENT(S)/RESPONDENTS/RESPONDENTS:

- 1 SUNITHA SHANMUGHAN AGED 36 YEARS
W/O. SHANMUGHAN PUDUKKAD
RESIDING AT HOUSE NO. APIV/377
KUNNAKULAM MUNICIPALITY, CHITTANJUR DESOM
ARTHAT VILLAGE, THALAPILLY TALUK, THRISSUR DISTRICT.**
- 2. DEWAN HOUSING FINANCE CORPORATION LTD.
REP. BY ITS MANAGER, 2ND FLOOR, SALPA COMPLEX
NEAR WEST FORT JUNCTION, M.G.ROAD, THRISSUR
KERALA-680004.**
- 3. THE AUTHORIZED OFFICER
DEWAN HOUSING FINANCE CORPORATION LTD., 2ND FLOOR
SALPA COMPLEX, NEAR WEST FORT JUNCTION, M.G.ROAD
THRISSUR, KERALA-680004.**

**R2&3 BY ADV. SRI.P.PAULCHAN ANTONY
BY SRI.G.SREEKUMAR (CHELUR)**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.A. No. 1425 of 2015

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Dated this, the 22nd day of July, 2015

J U D G M E N T

Ashok Bhushan, C.J.

Heard the learned counsel for the appellant.

2. This writ appeal has been filed against order dated 1/10/2014 passed in R.P.No.547/2014 in WP(C) No.24345/2013. WP(C) No.24345/2013 was filed by the auction purchaser consequent to sale notice issued by the Dewan Housing Finance Corporation Ltd. The property in question was mortgaged with the Corporation which had initiated proceedings under SARFAESI Act, 2002. The sale certificate was issued by the Corporation on 3/10/2012. The writ petition was filed by the auction purchaser praying that direction be issued for execution of sale deed. The writ petition was disposed of by the learned Single Judge vide judgment dated 4th November, 2013 directing for execution of

sale deed in favour of the writ petitioner. Subsequently, contempt proceedings was also filed and ultimately the sale deed was registered.

3. Appellant on the basis of court attachment has come up in the review petition praying that the order in R.P. be reviewed. He submits that an attachment was effected on 13th July, 2006 in respect of a loan advanced on 8th August, 2005 whereas mortgage in favour of the 2nd respondent is anterior (29/3/2005). Learned Single Judge has dismissed the review petition observing that if the review petitioner has any grievance, he can agitate the same under Section 17 of SARFAESI Act, 2002. Learned counsel for the appellant contends that the borrower was not made party to the writ petition. In the writ petition, relief was claimed for issuing a direction to execute the sale deed. The sale certificate was already issued and even if the borrower was not made a party, the Court was fully competent to grant relief. More so, the borrower had never come up either by a review petition or

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any other proceedings challenging the sale under SARFAESI Act, 2002.

We do not find any error in the order of the learned Single Judge dated 1st October 2014 rejecting the review petition filed by the appellant. We do not find any merit in the appeal. Writ appeal is dismissed.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge