

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No. 3635 of 2009 (G)

PETITIONER:

**NORTH MALABAR GRAMIN BANK, THALASSERY
BRANCH, KANNUR, REPRESENTED BY ITS MANAGER
AREA OFFICE, ERNAKULAM.**

**BY ADVS.SRI.DEVAN RAMACHANDRAN
SRI.K.M.ANEESH**

RESPONDENTS:

- 1. STATE OF KERALA, REPRESENTED BY CHIEF
SECRETARY TO THE GOVT.OF KERALA, SECRETARIAT
TRIVANDRUM.**
- 2. THE TAHSILDAR (R.R) TALUK OFFICE,
THALASSERY.**
- 3. MR.K.P.SAJEEVAN,S/O.KUNJIKANNAN,
PUTHIYA VEEDU P.O. URUVACHAL, THALASSERY TALUK
KANNUR DISTRICT PROPRIETOR, M/S.EVERSHINE, AUTOMOBILES
THALASSERY.**
- 4. K.K.ABDUL SALAM,S/O.HASSAN HAJI, SAFEERA
MANZIL, URUVACHAL P.O. THALASSERY TALUK.**
- 5. K.P.BALAKRISHNAN, S/O.RAMAN NAMBIAR,
K.P.HOUSE, URUVACHAL P.O. THALASSERY TALUK.**

R1 & R2 BY SR. GOVERNMENT PLEADER SRI. SOJAN JAMES

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
08-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

WP(C).No. 3635 of 2009 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. TRUE COPY OF THE PROCLAMATION OF SALE ISSUED BY THE
SUB COURT, THALASSERY**

**EXHIBIT P2. TRUE COPY OF THE PROCLAMATION OF SALE DATED NIL ISSUED
BY THE 2ND RESPONDENT**

RESPONDENT(S)' EXHIBITS:-NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

C.K. ABDUL REHIM, J.

WP(C)No.3635 of 2009

Dated this the 8th day of January, 2015

JUDGMENT

Respondents 3 to 5 had mortgaged 25.1 Ares of property comprised in Re-Survey No.22/4 of Pazhassi Village in favour of the petitioner Bank for securing a loan. Pursuant to default committed in re-payment of the loan, the Bank filed O.S. No.206/2001 before the Sub Court, Thalassery and the suit was decreed on 26/08/2003. While the execution petition filed by the Bank as EP No.418/2005 was pending consideration before the Execution Court, the properties were attached by the 2nd respondent and Ext.P2 notice proclaiming sale of the property was published. Evidently, the revenue recovery steps were initiated on the basis that the 3rd respondent had defaulted payment of Motor Vehicle Tax and also amounts due to the Kerala Motor Transport Workers Welfare Fund. It is challenging the revenue recovery steps and the proclamation of sale made by the 2nd respondent, this writ petition is filed.

2. Learned counsel appearing for the petitioner Bank submitted that, the property in question stands sold in court auction in EP No.418/2005 and amounts due to the petitioner Bank from the respondent stands realised. Therefore, no further steps can be pursued by the 2nd respondent under the revenue recovery proceedings.

3. In view of the fact that the property was sold in court auction and now it remains transferred title in favour of the petitioner Bank, the revenue recovery steps initiated against the 3rd respondent cannot be proceeded against the said property. However, if the revenue authorities has got any case that the property is liable to be proceeded, despite the auction sale, on the basis that the mortgage created as well as the court auction conducted are subsequent to arising of the liability with respect to Motor Vehicle Tax and the contributions due to the welfare fund, they can take appropriate steps after issuing notice to the petitioner Bank. If any such steps are initiated the petitioner Bank will be at the liberty to resist the same on all available

grounds, including those raised in this writ petition.

The writ petition is disposed of subject to the above observations.

**Sd/- C.K. ABDUL REHIM
JUDGE**

MJL