

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 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WA.No. 2224 of 2015 IN OP (DRT).56/2015

AGAINST THE JUDGMENT IN OP (DRT) 56/2015 DATED 19-06-2015

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APPELLANT/PETITIONER :

BINDU YESUDAS AGED 46 YEARS
W/O.C.G.YESUDAS, CHEMBAKOTTUKUDIYIL HOUSE
THRIKKARIYOOR P.O., KOTHAMANGALAM, ERNAKULAM DISTRICT.

BY ADVS.SRI.M.RAMESH CHANDER (SR.)
SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE

RESPONDENT/RESPONDENT :

THE AUTHORISED OFFICER, SUNDARAM BNP PARIBAS
HOME FINANCE LIMITED, SUNDARTAM TOWERS 46, WHITES ROAD
CHENNAI-14.

BY ADV. SRI.VARGHESE C.KURIAKOSE

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 15-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.A. No. 2224 OF 2015

Dated this the 15th day of October, 2015

JUDGMENT

Ashok Bhushan, C.J.

This writ appeal has been filed against the judgment and order dated 19.06.2015 in O.P.(DRT) No.56 of 2015.

2. The appellant was the petitioner in the writ petition who filed the writ petition praying to quash Ext.P8 order of the Tribunal by which the Tribunal has directed the petitioner to make certain payments, failing which Bank was given liberty to proceed with the provisions under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(for short 'SARFAESI Act').

3. In the writ petition the learned Single Judge modified the order of the Tribunal by permitting the petitioner to deposit Rs.2 lakhs on or before 03.06.2015 and the balance on or before 25.07.2105. Against the said direction of learned Single Judge, the appellant has come up with this writ appeal.

4. The submission made by learned Senior Counsel for the appellant is that in view of the Advocate Commissioner's Report, which was subsequently received, the major portion of

the property is agricultural property, hence SARFAESI proceedings ought not have been proceeded with.

5. After having heard learned counsel of both the parties, we are of the view that the issue which is sought to be raised in the writ appeal can very well be raised by the appellant before the Debt Recovery Tribunal. The question as to whether the property is an agricultural property requires consideration of facts which can be properly done by the Tribunal.

6. In view of the aforesaid, we are of the view that there is no ground to interfere with the impugned judgment of learned Single Judge. However, we only observe that it shall be open for the appellant to make such application as may be advised and Tribunal may consider and dispose of the matter as expeditiously as possible.

With the above observation, the Writ Appeal is closed.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**