

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 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

WA.No. 2620 of 2015 IN WP(C).30431/2015

AGAINST THE JUDGMENT IN WP(C) 30431/2015 DATED 27-10-2015

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APPELLANT/PETITIONER :

DEEPA, AGED 43 YEARS,
W/O. SHAJI, NEAR ST. PAULS SCHOOL, BANGLOW KUNNU
CHALIKAL, KONGAD P.O., PALAKKAD

BY ADV. SRI.T.U.SUJITH KUMAR

RESPONDENTS/RESPONDENTS :

1. AUTHORIZED OFFICER,
STATE BANK OF TRAVANCORE, PALAKKAD MAIN BRANCH
SURYA COMPLEX, PALAKKAD-678 014
2. CHIEF MANAGER,
STATE BANK OF TRAVANCORE, PALAKKAD MAIN BRANCH
SURYA COMPLEX, PALAKKAD-678 014

R1 & R2 BY SRI. JAYESH MOHAN KUMAR, SC, SBT.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 10-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A. No. 2620 OF 2015

Dated this the 10th day of December, 2015

JUDGMENT

Ashok Bhushan, C.J.

Heard learned counsel for the appellant and learned Standing Counsel for the respondent Bank.

2. This writ appeal has been filed against the judgment dated 27.10.2015 in W.P.(C) No.30431 of 2015 by which the learned Single Judge has dismissed the writ petition.

3. The appellant had filed the writ petition challenging the sale notice issued by the Bank in exercise of the power under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Learned Single Judge passed an interim order on 09.10.2015 directing the petitioner to remit ₹5 lakhs on or before 27.10.2015. When the matter was taken up for hearing on 27.10.2015 the petitioner had informed that she could not comply with the direction. Hence the learned Single Judge dismissed the writ petition.

4. Learned counsel for the appellant submits that appellant deposited ₹5 lakhs on 30.10.2015 hence the writ appeal be entertained.

5. Learned Standing Counsel for the Bank submits that the husband of the petitioner had already filed an application, I.A. No.123 of 2015 before the Debt Recovery Tribunal, in which a conditional order was passed and the matter is posted for hearing on 18.12.2015. It is also submitted that both the petitioner and her husband had taken loan. But learned counsel for the appellant submits that appellant's husband has taken the loan and she is the guarantor. It is not necessary for us to enter into the said issue.

6. Admittedly the petitioner's husband has approached the Debt Recovery Tribunal under Section 17 which proceeding is still pending. In view of the aforesaid, we are of the opinion that no grounds have been made out to entertain this writ appeal. The Writ Appeal is dismissed. However, we only observe that it is always open for the appellant to appear before the Debt Recovery Tribunal or to take such other relief as permissible

under law. It is also open for the appellant to bring to the notice of the Tribunal that she had remitted ₹5 lakhs on 30.10.2015 and Tribunal may pass appropriate orders.

**Ashok Bhushan,
Chief Justice.**

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