

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

WP(C).No. 3701 of 2015 (K)

PETITIONER :

M/S.THAMPI AND COMPANY,
PALUPARAMBIL BUILDING, IRIMPANAM POST,
ERNAKULAM DISTRICT-682 309,
REPRESENTED BY ITS MANAGING PARTNER JACO. T. MATHEW,
AGED 30 YEARS, S/O.LATE SHRI. THAMPI P MATHEW,
PALUPARAMBIL HOUSE, NORTH FORT GATE,
THRIPUNITHURA, ERNAKULAM DISTRICT-682 309.

BY ADVS.SRI.S.SHANAVAS KHAN
SMT.S.INDU

RESPONDENT(S):

1. THE IDBI BANK LIMITED, REGIONAL OFFICE, IIND FLOOR,
KATTUKARAN BUSINESS CENTRE, KADAVANTHRA,
ERNAKULAM-682 020,
REPRESENTED BY ITS DEPUTY GENRAL MANAGER.
2. THE DEPUTY GENRAL MANAGER,
IDBI BANK LIMITED,REGIONAL OFFICE, IIND FLOOR,
KATTUKARAN BUSINESS CENTRE, KADAVANTHRA,
ERNAKULAM-682 020
3. THE ASSISTANT GENERAL MANAGER,
IDBI BANK LIMITED,REGIONAL OFFICE, IIND FLOOR,
KATTUKARAN BUSINESS CENTRE, KADAVANTHRA,
ERNAKULAM-682 020.

*ADDL.R4 & R5 IMPLEADED

*Addl.R4. K.G.MADHUSOODANAN,AGED 52 YEARS,
S/O.GIRIJAN MENON, FLAT NO.2, KRISHNA ENCLAVE,
THRIPUNITHURA, PIN - 682 301.

*Addl.R5. T.A.VIJAYAKUMAR,AGED 53 YEARS,
S/O.ARAVINDAKSHA MENON, ARJUN NIVAS,
SANSKRIT COLLEGE ROAD, THRIPUNITHURA - 682 301.

*ADDL.R4 AND R5 ARE IMPLEADED AS PER ORDER DATED 25.02.2015 IN
IA.NO. 2466/15.

R1 TO R3 BY ADV. SRI.C.AJITH KUMAR
R4 & R5 BY ADV. KUM.APARNA SOMARAJAN
SRI.T.K.RAJESHKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. TRUE COPY OF THE STATEMENT SHOWING THE LOAN DETAILS
AVAILED FROM THE RESPONDENT BANK FROM 1/4/2010 TO 12/8/2014.
- EXT.P2. TRUE COPY OF THE STATEMENT SHOWING THE ITEM WISE VALUE OF
MORTGAGE PROPERTY.
- EXT.P3. TRUE COPY OF THE LETTER DATED 21/11/2014 ISSUED BY THE 2ND
RESPONDENT
- EXT.P4. TRUE COPY OF THE REQUEST LETTER DATED 2/12/2014 SENT BY THE
PETITIONER COMPANY TO THE DEPUTY GENERAL MANAGER OF THE
RESPONDENT BANK.
- EXT.P5. TRUE COPY OF THE LETTER DATED 7/1/2015 SENT TO THE BANK
- EXT.P6. TRUE COPY OF THE LETTER DATED 21/1/2015 SENT BY THE PETITION
TO THE BANK
- EXT.P7. TRUE COPY OF THE REPLY DATED 28/1/2015 SENT BY THE
RESPONDENT BANK TO THE PETITIONER

RESPONDENT(S)' EXHIBITS

- EXT.R1(A): TRUE COPY OF THE LETTER DATED 25/02/2015 ISSUED BY THE
RESPONDENTS TO THE PETITIONER.

/TRUE COPY/

P.A.TO.JUDGE

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P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 3701 of 2015

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Dated, this the 13th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

(i) Call for the records leading to Ext. P7 and quash the same by issuing a writ of certiorari.

(ii) Issue a writ of mandamus or any other writ, order or direction directing the respondents to release the title deeds in respect of land in Survey No. 1467/1 and 1464/1 Nadama village, on deposit of Rs. 2.8 crores, as expeditiously as possible but not later than 15th February 2015.

(iii) Issue a writ of mandamus or any other writ, order or direction directing the respondents to reconsider Ext. P6 representation preferred by the petitioner and

(iv) Pass such other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. A counter affidavit has been filed by the respondent, referring to the sequence of events as to the liability to be cleared by

the petitioner. It is stated that, after sorting out the issue, Ext. R1 (a) communication was issued to the petitioner on 25.02.2015, referring to some specific conditions to be complied with by the petitioner so as to release the property concerned. As per the said proceedings a total of sum of Rs. 280 lakhs is to be satisfied. The terms are as given below :

"Your request for release of property upon payment of Rs. 280 lakhs is approved subject to the following.

1. Clearing of critical interest dues of Rs.25,46,050/- over and above the payment of Rs.280 lakhs.

2. Completion of one more valuation from another of our empanelled valuer to confirm the value of the property proposed to be released and payment of the valuation fee.

3. Submission of draft of the sale agreement and draft sale deed so as to confirm the sale details.

4. Routing of the entire sale proceeds to IDBI Bank and the title deeds to be release only on payment of the entire aforementioned amount to the Bank.

5. Payment of Advocate Fee of Rs. 15,000/- in regard to the ongoing legal proceedings and due closure of the proceedings at the Honourable High Court.

6. Submission of Copy of Legal heir ship certificate duly certified by a Notary.

7. Submission of copy of General POA in the case of Shri Sanjo T Mathew duly certified by a Notary, with relevant clauses in regard to receive the title deeds on release from the Bank. Sanjo to confirm on the validity of the POA by way of letter to the Bank.

8. All the remaining legal heirs available in the location to be present at the time of release.

9. This letter is issued without prejudice to the rights of the Bank in the ongoing legal case under W.P. (C) 3701/2015 and other legal recourses available to us under SARFAESI and other legal options."

3. The learned standing counsel appearing for the respondent Bank submits that, subject to satisfaction of Clauses 6, 7 and 8, the Bank is ready to release the property to the petitioner.

4. The learned counsel for the petitioner submits that the petitioner is ready to comply with the said conditions and to effect deposit of Rs.280 lakhs within one week. Subject to satisfaction of the requirements as above, the property covered by item No. 5 in Ext. P2 shall be released to the petitioner forthwith.

The writ petition stands disposed of.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd