

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C) .No. 6186 of 2014 (W)

PETITIONER(S) :

LIMSON A.F.,
AGED 30 YEARS, S/O.A.V.FRANCIS,
EDAKULATHUR (H), VENKIDANGU P.O.,
THRISSUR.

BY ADV. SRI.L.RAJESH NARAYAN.

RESPONDENT(S) :

1. THE AUTHORISED OFFICER,
UCO BANK, SWARAJ ROUND (EAST),
TRICHUR-680 001.
2. BYJU T.,
THALAKOTTUR HOUSE, KECHERY P.O.,
THRISSUR-680 501.
3. SUB REGISTRAR,
SUB REGISTRAR OFFICE,
VENKITANGU-680 510.

BY SRI.GEORGE KARITHANAM VARGHESE, SC, UCO BANK,
R2 BY ADV. SRI.VINAY RAMDAS &
BY GOVERNMENT PLEADER SMT.M.T.SHEELA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT-P1: TRUE COPY OF THE LOCATION SKETCH.

EXHIBIT-P2: TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 13(2) DATED 16.7.2012.

EXHIBIT-P3: TRUE COPY OF THE REPLY TO ANNEXURE A1, DATED 16.9.2012.

EXHIBIT-P4: TRUE COPY OF THE REPRESENTATION DATED 30.10.2012.

EXHIBIT-P5: TRUE COPY OF THE NOTICE DATED 14.12.2012 ISSUED UNDER SECTION 13(4) .

EXHIBIT-P6: TRUE COPY OF THE PUBLICATION DATED 18.12.2012.

EXHIBIT-P7: TRUE COPY OF THE VALUATION REPORT DATED 3.10.12.

RESPONDENT(S) ' EXHIBITS :

ANNEXURE-1: TRUE PHOTOSTAT COPY OF THE JUDGMENT IN WP(C) NO.25844/2008 DATED 17/10/2008.

ANNEXURE-2: TRUE PHOTOSTAT COPY OF THE ORDER DATED 14/11/2008 IN RP NO.1210/2008.

ANNEXURE-3: TRUE PHOTOSTAT COPY OF THE JUDGMENT DATED 26/12/2008 IN WP(C) NO.38022/2008.

EXHIBIT R2(A) : SALE CERTIFICATE ISSUED BY THE AUTHERISED OFFICER UNDER RULE 9 (6) OF THE SECURITY INTEREST (ENFORCEMENT), RULE, 2002 OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 6186 of 2014

Dated this the 30th day of July, 2015

J U D G M E N T

The petitioner is a son of one Sri.A.V.Francis. Petitioner has approached this Court challenging the sale proceedings of the property belonging to Sri.A.V.Francis.

2. It is admitted that Sri.A.V.Francis was a defaulter to the respondent Bank and property was put into auction and sold in the year 2009.

3. Petitioner's case is that, he is entitled to challenge the sale taken place in the year 2009. It is a case of the petitioner that the sale taken place was in flagrant violation of the procedure as contemplated under SARFAESI Act and Rules.

4. Learned counsel demonstrated certain facts and submits that no publication was taken out for sale of the property and therefore sale is vitiated for want of non-compliance.

5. On the other hand, the learned counsel for the Bank submits that, defaulter Sri.A.V.Francis had challenged the sale proceedings. It is also submitted that, sale was confirmed in favour of the 2nd respondent in the year 2009 itself and the sale

certificate has been issued on 26.12.2009.

6. Petitioner's father is alive. The petitioner has no right over the property *in praesenti*. The property has been sold in the year 2009, only the person who is aggrieved can challenge the sale proceedings. Petitioner cannot be treated as a person aggrieved. In the absence of establishing any right over the property and that too after 6 years of sale, this Court cannot invoke the discretionary jurisdiction under Article 226 of the Constitution of India.

Accordingly, this writ petition is dismissed.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.