IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 31ST DAY OF OCTOBER 2012/9TH KARTHIKA 1934

WP(C).No. 10278 of 2010 (H)

PETITIONER:

JOMY PETER, S/O.VARKEY PETER,
KUREETHADOM (H), ELANJI
KOOTHATTUKULAM REPRESENTED BY HIS GENERAL
POWER OF ATTORNEY AND FATHER VARKEY PETER DO. DO.

BY ADV. SRI.V.K.SUNIL

RESPONDENTS:
----

1. THE REGISTRAR OF CO-OPERATIVE
   SOCIETIES, THIRUVANANTHAPURAM.

2. THE ASSISTANT REGISTRAR OF CO-OPERATIVE
   SOCIETIES (GENERAL), MUVATTUPUZHA.

3. THE MUTHALAPURAM SERVICE CO-OPERATIVE
   BANK LTD.NO.140, REPRESENTED BY ITS SECRETARY
   MUTHALAPURAM.

4. THE PRESIDENT, MUTHALAPURAM SERVICE
   CO-OPERATIVE BANK LTD.NO.140, MUTHALAPURAM.

R1 & R2 BY G.P. SRI. P.P. PADMALAYAN
R3 & R4 BY ADV. SRI.P.A.AUGUSTINE(AREEKATTEL)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31-10-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 10278 of 2010

APPENDIX

EXT.P1 : TRUE COPY OF THE RECEIPT NO. 7072 DATED 10-1-2008 ISSUED BY THE 3RD RESPONDENT.

EXT.P2 : TRUE COPY OF THE LETTER NO. CP(2) 19574/07 DATED 7-2-2009 ISSUED BY THE 1ST RESPONDENT.

EXT.P3 : TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

kvr/

V. CHITAMBARESH, J

W.P.(C). NO. 10278 OF 2010

Dated this the 30th day of March, 2015

JUDGMENT

A Division Bench of this Court in W.A. No. 182 of 2010 deprecated the practice of a Co-operative Bank holding on to the property even after the loanee has cleared the entire debt. This is notwithstanding the fact that the sale was confirmed in favour of the Award holder Bank and much time had elapsed since then. It was observed therein as follows:-

> "2. In our view, the Bank cannot have grievance against the judgment because the learned Single Judge directed re-conveyance of property on the defaulter paying the market value. Admittedly Bank is not engaged in real estate business nor is it's intention to retain purchased property on a regular basis. In fact, what is required for the Bank is liquidity which means it should sell the asset at the earliest and recover the amount which is working capital for it's functioning. We do not know why the Bank retained the property for so long. The loan was given to the defaulter for repayment with an annual interest of 13% and default would lead to penal interest which will be 2%. In other words, 15% interest on accrued debt amount for the balance period will take care of the interest of the Bank. However, since the respondent has not filed

> appeal against judgment of the learned Single Judge, we feel the Bank is entitled to higher rate of compensatory interest. Considering the escalation of the land value and for the sake of finality on the market value, the determination for which no guideline is issued by this court in the impugned judgment, we allow the Writ Appeal by modifying the judgment as follows. The first respondent is directed to remit Rs. 20 lakhs to the appellant-Bank within a period of one month from today. On deposit as above, the sale certificate issued by the Sales Officer in favour of the appellant-Bank will stand cancelled. The Sub Registrar will on production of copy of this judgment and on production of receipt of payment of Rs. 20 lakhs by the first respondent, reverse the entries made in regard to the property after sale to the Bank so that the property in records are restored to the first respondent" **(emphasis supplied)"**

I have followed the said judgment in W.P.(C). No. 32279/2011 disposed of on 06.03.2015.

2. The property of the petitioner has been purchased in auction by the third respondent bank for a sum of Rs. 1,68,453/- on 29.03.2001. I do feel that the property can be re-conveyed to the petitioner on his clearing the entire dues with compensatory costs. A sum of Rs. 1,68,453/- with interest thereon at 20% per annum

shall be remitted by the petitioner. The said amount shall be remitted on or before 30.04.2015.

3. I take note of the fact that a sum of Rs. 3,05,454/- has already been deposited by the petitioner. It is doubtful whether the amount deposited as per Ext. P1 receipt has been gathering interest or not. The amount so deposited shall be given credit to on the petitioner paying the amount as directed in the earlier paragraph. The petitioner shall in addition deposit the costs incurred for sale and litigation expenses. Ext. P4 sale certificate is quashed subject to the petitioner depositing the amount as above. The Sub Registrar shall reverse the entries in the relevant records suitably.

The writ petition is disposed of.

V. CHITAMBARESH
JUDGE

DCS