

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 7892 of 2014 (J)

PETITIONER :

**SOMAN V.K., AGED 58 YEARS,
S/O.RAMAN MENON, RESIDING AT PADMINI NIVAS,
KODUNGALLUR, THRISSUR DISTRICT, PIN-**

BY ADV. SRIP.S.SUJETH

RESPONDENTS :

**1. AUTHORISED OFFICER, STATE BANK OF INDIA
STRESSED ASSETS RECOVERY BRANCH, M.G.ROAD,
ERNAKULAM PIN-**

**2. THE BRANCH MANAGER
STATE BANK OF INDIA, LISSY BRANCH, ERNAKULAM
PIN-**

***ADDL. R3 IMPEADED :**

***3. MR.K.A.NAZARUDHEEN
KOLLIYIL HOUSE, FLAT NO.B3, SOUTH PARK
TRISSUR- 1.**

***ADDL. R3 IS IMPEADED AS PER ORDER DATED 21/05/2014 IN IA 5592/2014.**

**R1 BY ADVS. SRI.JAICE JACOB
SRI.P.MBENZIR
SMT.OORMILA.K.RAJAN
SRI.S.SARATH PRASAD
BY SRI.N.RAJAGOPALAN NAIR**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-07-2015, ALONG WITH WPC. 11783/2015, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE ORDER PASSED BY DRT DT 4/5/2012
- P2: COPY OF THE ORDER PASSED BY THE DRAT DT 13/3/2013.
- P3: COPY OF THE DD NO: "489138" PRODUCED BEFORE THE DRAT. CHENNAI
DT 30/5/2013.
- P4: COPY OF THE REPRESENTATION GIVEN TO THE BANK AUTHORITY

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A. MUHAMED MUSTAQUE, J.

W.P(C). Nos. 7892 of 2014 & 11783 of 2015

Dated this the 13th day of July, 2015

J U D G M E N T

These writ petitions are relating to sale conducted by the Bank invoking the powers under the SARFAESI Act.

2. WP(C) No.7892/2014 is filed by the borrower and WP(C) No.11783/2015 is filed by the auction purchaser.

3. WP(C) No.7892/2014 is filed seeking a direction to the Bank to consider the application for settlement of loan account under the OTS Scheme. WP(C) No.11783/2015 is filed directing the Bank to issue Sale Certificate.

4. It is admitted that, the borrower has filed Securitisation Application No.414/2012 before DRT challenging the same. There was a conditional order and the same was not complied by the borrower. Thereafter, the borrower filed an appeal. In the appeal (M.A. in S.A.667/2013) there was a direction to the petitioner to deposit ₹25,00,000/- and the DRT to consider petitioners' application.

5. It is submitted that Bank transferred the entire assets and liability to the Assets Reconstruction Company. The Company is impleaded as an additional 3rd respondent in WP(C)

No.11783/2015. It is admitted by the learned counsel for the borrower that the above Company was also impleaded in Securitisation Application.

6. It appears that, Securitisation Application No. 414/2012 has been dismissed on account of non-prosecution. Borrower now submits that he has filed Restoration Application.

7. This Court is of the view that, essentially these matters can be resolved through proceedings before DRT. The auction purchaser necessarily is entitled for Sales Certificate. However, that would be depend upon the decision by the DRT, in the application filed by the borrower in S.A.414/2013.

8. Considering the facts and circumstances, the following directions are issued:

- (i) The DRT is directed to consider and pass appropriate orders in the Restoration Application, if any, filed in S.A.No.414/2012 within 4 weeks from production of copy of the judgment after notice to all parties.
- (ii) The DRT is also competent to issue appropriate direction to the Bank in the matter of issuing Sales Certificate.
- (iii) it is also open for the DRT to take appropriate decision regarding the issuance of Sale Certificate to the auction

purchaser by the Bank or Company while taking a decision in the S.A. No.414/2012.

These writ petitions are disposed of. No cost.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn