

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

WP(C).No. 7906 of 2015 (K)

PETITIONER:

ANIL KUMAR, AGED 45 YEARS,
S/O. CHAMUNNI, RESIDING AT ALINKAL HOUSE, AYILOOR P.O.,
PALAKKAD DISTRICT - 678 510.

BY ADVS.SRI.S.KRISHNA PRASAD (AYALUR)
SMT.MINI.V.A.

RESPONDENTS:

1. THE BRANCH MANAGER,
PALAKKAD DISTRICT CO-OPERTIVE BANK, NENMARA BRANCH,
NENMARA P.O., PALAKKAD - 678 508.
 2. THE JUNIOR INSPECTOR/SPECIAL SALES OFFICER - II,
PALAKKAD DSTRIC CO-OPERATIVE BANK,
PALAKKAD DISTRICT - 678 001.
 3. ASSISTANT REGISTRAR OF CO-OPRATIVE SOCIETIES,
OFFICE OF THE CO-OPERATIVE SOCIETIES REGISTRAR,
PALAKKAD - 678 001.
 4. JAYACHANDRAN,
S/O. VELAYUDHANKUTTY, NADUPATHY KALAM, ADIPERANDA,
KAIRADY, NEMMARA, PALAKKAD DISTRICT - 678 510.
- R1&2 BY ADV. SRI.M.SASINDRAN, SC, PALAKKAD DIST.CO.OP.BANK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
03-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

P1 - TRUE COPY OF THE RECEIPT SHOWING THE PAYMENT OF RS. 1,30,000/-.

P2 - TRUE COPY OF THE LETTER DT. 26.4.14 ISSUED BY THE 2ND RESPONDENT.

P3 - TRUE COPY OF THE JUDGMENT DT. 04.8.14 IN W.(P).C NO. 19387/14 OF THIS HONOURABLE COURT.

P4 - TRUE COPY OF THE NOTICE DT. 23.10.14 SENT TO THE RESPONDENTS 1 AND 2 THROUGH THE PETITIONER'S COUNSEL.

P5 - TRUE COPY OF THE REPLY NOTICE DT. 06.11.14 ISSUED TO THE PETITIONER'S COUNSEL.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 7906 of 2015 (K)

Dated this the 3rd day of July, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent Bank, apart from perusing the record. Despite service of notice, none appears for the 4th respondent.

2. The petitioner, an auction purchaser of the property owned by the 4th respondent, succeeded in bidding the property for an amount of ₹ 8,50,000/- and has deposited the entire amount. When he approached the Bank for getting the property registered in his favour, the Bank informed him that as per Ext.P3 judgment, this Court granted five equal monthly instalments to the 4th respondent to pay off the outstanding amount. The grievance of the petitioner is that in spite of repeated request, the sale proceeds deposited by the petitioner has not been returned to him. Hence this writ petition.

3. This Court, initially, on 18.03.2015 issued an interim direction staying confirmation of sale, at the behest of the very

auction purchaser, the petitioner; in view of the subsequent developments, the petitioner has come up before this Court seeking the vacation of the interim direction.

4. The learned counsel for the respondent Bank has submitted that the 4th respondent, having obtained a direction from this Court in Ext.P3 judgment subsequent to the sale of the property in favour of the petitioner, once again failed to comply with the scheme of instalments provided by this Court in the said judgment. According to him, now the respondent Bank has decided to confirm the sale in favour of the petitioner, inasmuch as this Court in Ext.P3 judgment has made it clear that the 4th respondent shall forfeit the benefit of the judgment in the event of default.

5. Accordingly, the interim order granted on 18.03.2015 stands vacated, leaving it open for the respondent Bank and the petitioner to proceed further with the issue of confirmation of sale.

With the above directions, the writ petition stands closed. Since the sale proceeds are said to have been deposited one year ago, the respondent Bank may expedite the process of confirmation of sale, subject to the fulfilment of other statutory conditions, as

expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment.

sd/- DAMA SESHADRI NAIDU, JUDGE.

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