

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 8379 of 2015 (V)

PETITIONER(S):

1. **AMBILY ROY,
D/O. ROY PHILIP,
THAYIL ATHIMATTOM,
MANNANAM P.O.
ATHIRAMPUZHA VILLAGE, KOTTAYAM DISTRICT-686 561.**
2. **SYNDICATE BANK,
M.G.ROAD BRANCH,
MUTHOOT TOWERS, M.G.ROAD,
ERNAKULAM-682 035, REPRESENTED BY ITS CHIEF MANAGER.**

**BY ADVS.SRI.K.P.SUJESH KUMAR
SMT.KEERTHI K.NARAYANAN**

RESPONDENT(S):

1. **THE SUB REGISTRAR,
SUB REGISTRY OFFICE,
EDAPPALLY, ERNAKULAM-682 024.**
2. **THE VILLAGE OFFICER,
EDAPPALLY SOUTH VILLAGE,
ERNAKULAM-682 024.**
3. **M.R.VIJAYAN
S/O. RAGHAVAN,
TRIPADAM, NEAR FATHIMA MATHA CHURTH,
CHANGAMPUZHA NAGAR, KOCHI-682 033.**

R1 & R2 BY GOVERNMENT PLEADER SRI.SHYSON PMANGUZHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 :TRUE COPY OF THE SALE DEED NO.629/2004 OF EDAPPALLY SUB
REGISTRY OFFICE, DTD.4.2.2004.**

**EXHIBIT P2 : TRUE COPY OF THE CONFIRMATION OF DEPOSIT OF TITLE DEEDS
DTD.4.2.2004.**

**EXHIBIT P3 :TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 2ND PETITIONER
UNDER THE SARFAESI ACT, DTD.1.10.2012.**

**EXHIBIT P4 :TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE 2ND
PETITIONER IN RESPECT OF THE SECURED ASSETS, DTD.29.11.2013.**

**EXHIBIT P5 : TRUE COPY OF THE SALE NOTICE FOR E-AUCTION PUBLISHED BY THE
2ND PETITIONER, DTD.6.1.2015.**

**EXHIBIT P6 : TRUE COPY OF THE SALE CERTIFICATE ISSUED BY THE 2ND
PETITIONER IN THE NAME OF THE FIRST PETITIONER, DTD.9.3.2015.**

**EXHIBIT P7 : TRUE COPY OF THE CERTIFICATE OF SALE PREPARED IN THE STAMP
PAPERS DTD.10.3.2015.**

**EXHIBIT P8 : TRUE COPY OF THE ENCUMBRANCE CERTIFICATE NO.926/205
DTD.17.1.2015 IN RESPECT OF THE PROPERTY COVERED BY EXT.P7
CERTIFICATE OF SALE, DTD.17.1.2015.**

**EXHIBIT P9 : COPY OF THE JUDGMENT IN WPC NO.2684/2011 OF THIS HON'BLE
COURT, DTD.10.6.2011.**

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

vmr.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 8379 of 2015
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Dated this the 23rd day of March, 2015

JUDGMENT

The 1st petitioner, who had purchased an item of property from the 2nd petitioner, in an auction conducted under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', is aggrieved by the inaction on the part of the 1st respondent in not registering the sale of the said property to the petitioner, despite the fact that Ext.P7 sale certificate has already been issued to her in terms of the provisions of the SARFAESI Act.

2. I have heard the learned counsel appearing for the petitioner and the learned Government Pleader on behalf of the 1st and 2nd respondents.

3. The learned Government Pleader, on instructions, would submit that the registration has been denied by the 1st respondent, solely because there is an attachment ordered over the property in question by the Civil Court.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that the issue with regard to, whether the registering authority, under the Registration Act, can deny registration pursuant to a sale certificate obtained by an applicant, on the ground that there is a subsequent attachment over the property, in proceedings before the Civil Court, has already been decided by this Court in the decision reported in **Housing Development Finance Corporation Ltd. And another v. The Sub Registry Officer and others.** [2011 (3) KLJ 561]. The said decision is also produced as Ext.P9 in the writ petition.

Accordingly, this writ petition is disposed with a direction to the 1st respondent to take steps, in accordance with the law laid down by this Court in Ext.P9 judgment, to register the property pursuant to Ext.P7 sale certificate issued in favour of the 1st petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE