

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

WP(C).No. 16015 of 2015 (B)

PETITIONER(S):

**ROOBEN K.GEORGE, S/O.LATE SMT.JIBI ANNA CHANDY,
T.C.4/220-2, KARAPPUZHA, KURUVANKONAM,
KOWDIAR P.O., THIRUVANANTHAPURAM-695 003.**

BY ADV. SRI.SHEJI P.ABRAHAM.

RESPONDENT(S):

- 1. REGIONAL MANAGER,
THE KERALA STATE CO-OPERATIVE BANK LTD.,
REGIONAL OFFICE, CO-OPERATIVE BANK BUILDING,
OVER BRIDGE JN., TRIVANDRUM-695 001.**
- 2. MANAGER, KERALA STATE CO-OPERATIVE BANK LTD.,
PEROORKADA BRANCH, TRIVANDRUM-695 005.**
- 3. THE AUTHORIZED OFFICER,
THE KERALA STATE CO-OPERATIVE BANK LTD.,
REGIONAL OFFICE, CO-OPERATIVE BANK BUILDING,
OVER BRIDGE JN., TRIVANDRUM-695 001.**

BY ADV. SRI.GEORGE POONTHOTTAM, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT-P1:** TRUE COPY OF THE NOTICE ISSUED FROM THE OFFICE OF THE 1ST RESPONDENT DATED 16.03.2014.
- EXHIBIT-P2:** TRUE COPY OF THE REGISTERED REPLY NOTICE SENT BY THE PETITIONER TO THE RESPONDENT BANK DATED 02.05.2015.
- EXHIBIT-P2(A):** TRUE COPY OF THE REGISTRATION RECEIPT.
- EXHIBIT-P3:** TRUE COPY OF THE NOTICE AFFIXED BY THE 3RD RESPONDENT IN THE RESIDENTIAL BUILDING OF THE PETITIONER.
- EXHIBIT P4** TRUE COPY OF THE GIFT DEED DATED 21/03/1991.

RESPONDENT'S EXHIBITS:-

- EXT.R1A** COPY OF THE APPLICATION DATED 06/12/2004 SUBMITTED BY THE PETITIONER'S FATHER.
- EXT.R1B** COPY OF THE AGREEMENT DATED 20/12/2004 ENTERED BETWEEN THE RESPONDENT BANK AND LATE GEORGE K.VARGHESE.
- EXT.R1C** COPY OF THE 13(2) NOTICE DATED 12/01/2009.
- EXT.R1D** COPY OF THE PAPER PUBLICATION DATED 01/01/2011 IN DESHABHIMANI DAILY.
- EXT.R1E** COPY OF THE POSSESSION NOTICE DATED 28/01/2011.
- EXT.R1F** COPY OF THE GIFT DEED DATED 11/03/1992 DEPOSITED BY THE FATHER OF THE PETITIONER BEFORE THE RESPONDENT BANK.

//TRUE COPY//

PA. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.16015 of 2015

Dated this the 7th day of August, 2015

JUDGMENT

The petitioner is the son of Smt.Annamma Varghese, born in the wedlock with George K.Varghese. The petitioner has approached this Court challenging SARFAESI proceedings. The petitioner's case is that the property which is the subject matter of SARFAESI proceedings belongs to his mother. The mother got the right over the property by way of the gift deed executed by her father, namely, Chandy Ommen. It is the case of the petitioner that the property was never been a subject matter of the loan transaction. Therefore, SARFAESI proceedings are illegal.

In this matter, the respondents have filed a counter affidavit as well as an additional counter affidavit. According to the Bank, the property was mortgaged by the father of the petitioner, namely, George K.Varghese. The father obtained the property by way of Ext.R1(f) executed by Annamma Varghese in the year, 1992. This was a gift deed. Therefore, George K.Varghese had a valid title over the property while executing mortgage.

This Court is of the view that the disputed question regarding the title cannot be resolved through the writ petition. If the petitioner has any grievance against any of the documents claimed by the Bank, he is free to do so by resorting to an alternative remedy.

With that liberty, this writ petition is disposed of. To enable such alternative remedy, the coercive steps initiated against the property shall be deferred for a period of one month.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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