

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WP(C).No. 17396 of 2015 (Y)

PETITIONER(S):

1. LAKSHMI ENTERPRISES,
UDAYARESHMI BUILDING, KARAKKATTU ROAD,
KOCHI-682 016, REPRESENTED BY THE PROPRIETOR,
SRI.T.K. AJITHKUMAR, AGED 56 YEARS,
S/O. T.K. BALAKRISHNAN,
REPRESENTED BY POWER OF ATTORNEY HOLDER,
SRI.T.K. PREMANAND, AGED 63 YEARS, S/O.T.K. BALAKRISHNAN,
RESIDING AT 101/ SANTHI VIHAR APARTMENTS,
ELANJIKAL LANE, KADAVANTHRA, KOCHI- 682 020.
2. LAKSHMI DISTRIBUTORS,
UDAYARESHMI BUILDING, KARAKKATTU ROAD,
KOCHI-682 016, REPRESENTED BY ITS MANAGING PARTNER,
SRI.T.K. AJITHKUMAR, AGED 56 YEARS,
S/O.T.K. BALAKRISHNAN,
REPRESENTED BY POWER OF ATTORNEY HOLDER,
SRI.T.K. PREMANAND, AGED 63 YEARS, S/O. T.K. BALAKRISHNAN,
RESIDING AT 101/ SANTHI VIHAR APARTMENTS,
ELANJIKAL LANE, KADAVANTHRA, KOCHI -682 020.

**BY ADVS.SRI.SAJEEV KUMAR K.GOPAL,
SRI.R.HARISHANKAR.**

RESPONDENT(S):

1. THE STATE BANK OF INDIA,
TRADE FINANCE CPC ERNAKULAM,
INDIRA GANDHI ROAD, WILLINGTON ISLAND,
KOCHI- 682 003, REPRESENTED BY THE CHIEF MANAGER.
2. THE AUTHORISED OFFICER,
STATE BANK OF INDIA, SME BRANCH, R.S. BUILDING,
OPP. MAHARAJAS COLLEGE GROUND, M.G. ROAD,
ERNAKULAM -682 011.

BY ADV. SRI.S.EASWARAN, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONERS' EXHIBITS:

- EXHIBIT P1:** TRUE COPY OF THE BANK GUARANTEE GIVEN BY THE 1ST RESPONDENT TO THE COMPANY FOR Rs. 30 LAKHS.
- EXHIBIT P2:** TRUE COPY OF THE BANK GUARANTEE GIVEN BY THE 1ST RESPONDENT TO THE COMPANY FOR Rs. 40 LAKHS.
- EXHIBIT P3:** TRUE COPY OF THE INTERIM ORDER IN WP.(C) NO.22734/2014 OF THIS HON'BLE COURT DATED 28.08.2014.
- EXHIBIT P4:** TRUE COPY OF THE INTERIM ORDER IN IA. NO.14033/2014 IN WP.(C) NO.22734/2014 OF THIS HONOURABLE COURT DATED 16.10.2014.
- EXHIBIT P5:** TRUE COPY OF THE NOTICE ISSUED TO THE 1ST PETITIONER UNDER SECTION 13(2) OF THE SARFAESI ACT DATED 05.11.2014.
- EXHIBIT P6:** TRUE COPY OF THE NOTICE ISSUED TO THE 2ND PETITIONER UNDER SECTION 13(D) OF THE SARFAESI ACT DATED 05.11.2014.
- EXHIBIT P7:** TRUE COPY OF THE OBJECTION SUBMITTED BY SRI. T.K. AJITHKUMAR TO THE 2ND RESPONDENT DATED 17.01.2015.
- EXHIBIT P8:** TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE 2ND RESPONDENT DATED 23.01.2015.
- EXHIBIT P9:** TRUE COPY OF THE NOTICE FOR SALE ISSUED BY THE RESPONDENTS DATED 12.05.2015.

RESPONDENTS' EXHIBITS:

- EXT.R2A** COPY OF THE CONSENT LETTER DATED 24/02/2015 EXECUTED BY THE PARTIES.
- EXT.R2B** COPY OF THE LETTER DATED 15/12/2014 SUBMITTED BY SMT.N.G. VIJAYALAKSHMI.
- EXT.R2C** COPY OF THE LETTER DATED 15/12/2014 SUBMITTED BY SMT.ROOPILA SOMAN.
- EXT.R2D** COPY OF THE PROCEEDINGS/MINUTES OF THE COMMITTEE HELD ON 28/03/2015.
- EXT.R2E** COPY OF THE E-MAIL COMMUNICATION DATED 15/01/2015 ADDRESSED TO THE BANK.

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**EXT.R2F COPY OF THE E-MAIL COMMUNICATION DATED 17/01/2015
ADDRESSED BY THE BANK.**

**EXT.R2G COPY OF THE PAPER PUBLICATION IN NEW INDIAN EXPRESS
DAILY DATED 14/05/2015.**

**EXT.R2H COPY OF THE PAPER PUBLICATION IN MATHRUBHOOMI DAILY
DATED 14/05/2015.**

//TRUE COPY//

PA. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.17396 of 2015

Dated this the 16th day of June, 2015

J U D G M E N T

The petitioner challenges Ext.P9 sale notice in this writ petition. The sale is proposed to take place on 17.06.2015.

2. The petitioner submits that, the reserved price fixed for the property is around 2.8 crores and he will be able to find out a buyer for a higher price than the reserved price fixed for the property now scheduled for sale.

3. The learned Standing Counsel for the Bank submits that, the Bank after completing the formalities and considering the nature of the value of the property fixed the valuation. It is further submitted that, if the petitioner has any grievance against the valuation, the petitioner cannot invoke the jurisdiction of this Court under Article 226 of the Constitution.

4. Essentially the question of valuation cannot be entertained by this Court under Article 226 of the Constitution. However, if the petitioner attempts to see that he could discharge the liability by selling the property for a higher price than the reserved price fixed as per Ext.P9 cannot be foreclosed.

5. Therefore, I am of the view that, the petitioner should be given some breathing time to find out a buyer for higher price than the price now fixed by the Bank in Ext.P9. To enable the petitioner to work out the above relief, the sale shall be deferred for a period

of two months from tomorrow. If the petitioner is unable to find out an appropriate buyer, the bank is at liberty to proceed with sale. All other contentions of the petitioner in the writ petition is left open.

This writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV