

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

WP(C).No. 18547 of 2015 (P)

PETITIONER:

BALKEES,
W/O.MUHAMMAD HANEEFA, VALIYAPARAMBIL HOUSE
THAVANOR (PO), PIN, THAVANOOR AMSOM,
MOOVANKARA DESOM, PONNANI TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.JAMSHEED HAFIZ

RESPONDENTS:

1. THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.
NO.4329, HEAD OFFICE, PB.NO.8, MALAPPURAM (PO)
PIN-676 505, MALAPPURAM DISTRICT,
REPRESENTED BY ITS GENERAL MANAGER

2. ITTIKAPARAMBIL MOHAMMED ALI,
S/O.POCKER @ ABOOBACKER, ITTIKAPARAMBIL HOUSE,
THAVANOOR (PO), PIN 679 573,
PONNANI TALUK, MALAPPURAM DISTRICT.

R2 BY ADV. SRI.P.G.SURESH
R2 BY ADV. SRI.G.SUDHEER (THURAVOOR)
R2 BY ADV. SRI.RAJAN VISHNURAJ
R2 BY ADV. SRI.V.HARISH
R BY SRI.E.S.M.KABEER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S' EXHIBITS:

P1:A TRUE COPY OF THE BASIC TAX RECEIPT IN THE NAME OF THE PETITIONER
DATED 27.08.2014.

P2:A TRUE COPY OF THE RECEIPT FOR THE PAYMENT OF RS.5,61,982 DATED
28.05.2015.

P3:A TRUE COPY OF THE RECEIPT FOR THE PAYMENT OF RS.9870 DATED
28.05.2015.

P4:A TRUE COPY OF THE RECEIPT FOR THE PAYMENT OF RS.6120 DATED
28.05.2015.

P5:A TRUE COPY OF THE RECEIPT FOR THE PAYMENT OF RS.337 DATED
28.05.2015.

P6:A TRUE COPY OF THE RECEIPT FOR THE PAYMENT OF RS.34 DATED
28.05.2015.

P7:A TRUE COPY OF THE NOTICE ISSUED BY THE PETITIONER TO THE 1ST
RESPONDENT BANK DATED 29.05.2015.

P8:A TRUE COPY OF THE REPLY NOTICE ISSUED BY THE 1ST RESPONDENT BANK
DATED 10.06.2015.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 18547 of 2015 (P)

Dated this the 27th day of July, 2015.

JUDGMENT

Heard the learned counsel for the petitioner, the learned counsel for the respondent Bank and the learned counsel for the second respondent, apart from perusing the record.

2. The petitioner purchased an immovable property belonging to the second respondent and had the revenue records mutated, reflecting her name as the owner of the property. In course of time, when she came to know that the second respondent had mortgaged the property to the first respondent Bank, the petitioner, to redeem it, paid off the entire loan amount. Ventilating her grievance that despite the clearance of loan, the first respondent Bank has not been handing over to the petitioner the title deeds, the petitioner has filed the present writ petition.

3. The learned counsel for the first respondent Bank, strangely in my view, has submitted that if this Court directs,

the respondent Bank is willing to release the documents in favour of the petitioner.

4. Before proceeding further, I am compelled to observe that an administrator cannot regulate its conduct at every turn merely based on judicial directives. If a person has a right, he can assert it; at the same time, if he has a duty or an obligation, he is bound to perform it, in accordance with law. The role of the court comes into picture only when there is an infraction of any statutory or constitutional mandate, apart from certain cannon law concerns.

5. Be that as it may, the learned counsel for the second respondent has submitted that the second respondent does not have any objection, if the respondent Bank releases the documents in favour of the petitioner.

Essentially going by the submission made by the learned counsel for the second respondent, this Court disposes of the writ petition directing the first respondent Bank to release the title deeds mortgaged by the second respondent to the

petitioner, who is said to be the present owner of the property, provided all the dues in the loan account have been cleared. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

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