

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

W.P.(C).No. 21494 of 2015 (J)

PETITIONER :

DAVID LALY,
RESIDING AT 'SHARON', CHOICE GARDENS,
TOCH ROAD, VYTILA, ERNAKULAM DISTRICT.

BY ADV. SRI.SANTHAN V.NAIR

RESPONDENTS :

1. STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY
TO GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, TRIVANDRUM-695001.
2. STATE BANK OF TRAVANCORE,
STRESSED ASSET RESOLUTION CENTRE, SBT BHAVAN,
PANAMPILLY NAGAR, ERNAKULAM DISTRICT-682036
REPRESENTED BY ITS MANAGER.

R2 BY ADV. SRI.T.SETHUMADHAVAN (SENIOR)
ADV. SRI.K.JAYESH MOHANKUMAR
BY GOVERNMENT PLEADER : SMT. M.T.SHEEBA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 20-07-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

bpr

W.P.(C) .No. 21494 of 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 TRUE COPY OF THE LETTER DATED 05.02.2015 ISSUED BY
 THE 2ND RESPONDENT GRANTING OTS FACILITY TO THE
 PETITIONER.

EXT.P2 TRUE COPY OF THE SALE NOTICE DATED 01.06.2015
 ISSUED BY THE 2ND RESPONDENT FOR THE SALE OF THE
 MORTGAGED PROPERTY.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

bpr

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 21494 of 2015

Dated this the 20th day of July, 2015

JUDGMENT

The petitioner has approached this Court challenging SARFAESI proceedings.

2. The petitioner has already challenged the Securitisation proceedings before the Debts Recovery Tribunal, Ernakulam in SA No. 734/2012. It is admitted that the above application is pending. It is also admitted that the bank also filed an original application and the same is pending.

3. The sale is scheduled on 21.07.2015. The petitioner mooted a proposal for settlement of liability as follows:

i) The petitioner will pay Rs. 10,00,000/- within four weeks and remaining payment will be made in eight equal monthly instalments.

ii) The amount of Rs. 12,50,000/- deposited by them before the Bank, shall be adjusted against the liability.

4. This Court is the view that the matter is in seisin of the Debts Recovery Tribunal, it is proper for the Tribunal to take appropriate decision in the matter. It may not be

proper, this Court to interfere in a pending matter before the Debts Recovery Tribunal. However, the sale scheduled tomorrow shall be deferred for a period of ten days on condition that the petitioner remits Rs. 5,00,000/- before the time of the sale scheduled.

In view of the above, the Debts Recovery Tribunal is directed to prepone the hearing of SA No. 734/2012 to 29.07.2015 and pass appropriate orders after hearing the petitioner. The adjournment of the sale will be subject to further orders of the Debts Recovery Tribunal.

The writ petition is disposed of as above.

A. MUHAMED MUSTAQUE, JUDGE

bpr