IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

W.P.(C).No.25008 of 2014 (A)

PETITIONER(S):-

M.K.RAGINI, AGED 64 YEARS,
T.C. 37/1722, 'SREEDURGA', WEST STREET FORT,
THIRUVANANTHAPURAM-695025.

BY ADVS.SRI.R.MANOJ
SMT.K.L.LAKSHMI RANI.

RESPONDENT(S):-

1. THE STATE BANK OF TRAVANCORE,
REPRESENTED BY ITS ASSISTANT GENERAL MANAGER,
RASMECC, THIRUVANANTHAPURAM-695001.

2. THE CHIEF MANAGER,
STATE BANK OF INDIA, FORT BRANCH,
THIRUVANANTHAPURAM-695001.

3. THE BANKING OMBUDSMAN,
OFFICE OF THE BANKING OMBUDSMAN
(KERALA, UNION TERRITORY OF LAKSHADWEEP & MAHI)
RESERVE BANK OF INDIA, THIRUVANANTHAPURAM-695033.

R1 & R2 BY STANDING COUNSEL SRI.R.S.KALKURA,
ADVS. MR.KALESH,
SMT.A.V.PRIYA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No.25008 of 2014 (A)

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXT.P1. TRUE COPY OF THE ACKNOWLEDGMENT OF THE DOCUMENT SUBMITTED ISSUED BY THE 2ND RESPONDENT.

EXT.P2. TRUE COPY OF THE LETTER DATED 12-3-2014 ISSUED BY THE 2ND RESPONDENT TO THE ASSISTANT GENERAL MANAGER OF THE 1ST RESPONDENT BANK.

EXT.P3. TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE BANKING OMBUDSMAN DATED 7-6-2014.

EXT.P4. TRUE COPY OF THE COMMUNICATION ISSUED TO THE PETITIONER BY THE BANKING OMBUDSMAN DATED 13.06.2014.

EXT.P5. TRUE COPY OF THE COMMUNICATION ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT DATED 18-6-2014.

EXT.P6. TRUE COPY OF THE JUDGMENT OF HIS HON'BLE IN WPC NO. 21300/2014 DATED 18-8-2014.

EXT.P7. TRUE COPY OF THE COMMUNICATION DATED 25-8-2014 ISSUED BY THE PETITIONERS COUNSEL TO THE BANING OMBUDSMAN DATED 25-8-2014.

EXT.P8. TRUE COPY OF THE COMMUNICATION ISSUED TO THE PETITIONER'S COUNSEL DATED 17-9-2014 ALONG WITH COPY OF A COMMUNICATION ALLEGED TO BE ISSUED TO THE PETITIONER DATED 13-8-2014.

EXT.P9 TRUE COPY OF THE VALUATION CERTIFICATE OF V.RAVEENDRANATHAN NAIR, RETIRED CHIEF ARCHITECT, PWD, GOVERNMENT OF KERALA.

RESPONDENT(S)' EXHIBITS:-

EXT.R1(a) TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER DATED NIL.

EXT.R1(b) TRUE COPY OF THE VALUATION CERTIFICATE ISSUED BY THE CHARTERED ENGINEER AND APPROVED VALUER DATED 7.10.2014.

EXT.R1(c) TRUE COPY OF THE CIRCULAR PSB NO.15/2008 DATED 4.4.2008 PERTAINING TO REVERSE MORTGAGE LOAN.

EXT.R1(d) TRUE COPY OF THE REPORT DATED 1.7.2014 SUBMITTED BY THE ASSISTANT GENERAL MANAGER, REGION-I, TO THE COMPLAINT FILED BY THE PETITIOENR BEFORE THE BANKING OMBUDSMAN.

EXT.R1(e) TRUE COPY OF THE LETTER DATED 18.6.2014 ALONG WITH THE ENDORSEMENT OF HAVING TAKEN BACK THE TITLE DEEDS SUBMITTED BY HER FOR GRANT OF LOAN.

Vku/- [true copy]

K. Vinod Chandran, J.

W.P.(C).No.25008 of 2014-A

Dated this the 06th day of July, 2015

<u>JUDGMENT</u>

The petitioner is aggrieved with the fact that the respondent-Bank has not advanced the reverse mortgage loan sought for by the petitioner despite the Bank having sanctioned the same previously. The petitioner relies on Exhibit P2, to contend that though the Bank was inclined earlier, the Bank has now rejected the same on flimsy reasons.

2. The petitioner had approached the Ombudsman against the decision of the Bank and obtained Exhibit P6 order for consideration of the matter by the Ombudsman. The judgment at Exhibit P6 is dated 18.08.2014. However, prior to that the Ombudsman had decided the matter on 13.08.2014. The said fact was communicated to the petitioner and now the petitioner challenges Exhibit P8 order on the ground that the same has to be reconsidered.

3. In any event, the Bank has placed the entire matter before this Court, in a counter affidavit. The specific contention of the Bank is that Exhibit P2 is a letter issued by the

Chief Manager of the Branch, to the Assistant General Manager, SBT RASMECCC, Thiruvananthapuram; which is the authority empowered to sanction reverse mortgage loan. Exhibit P2 is only a recommendation made by the Chief Manager of the Branch. Before the Assistant General Manager considered the issue, a valuation was taken, which is produced at Exhibit R1 (b). The specific contention is that the property offered as security has an extent of only 1.25 cents and that the same is situated on the western side and is adjacent to Vazhapally Road with an old row house Agraharam tiled roof. The property comes within the Heritage Zone and it has a width of only 2 meters. No construction can be carried on in the said property; nor can a reconstruction be carried on therein, since the property comes under the Heritage Zone. It is in such circumstance that the reverse mortgage loan was refused by the respondent-Bank.

4. This Court does not find any reason to interfere with the decision taken by the financial institution on the basis of the valuation. The concept of reverse mortgage is one which furthers the cause of senior citizens and helps them to tide over financial crisis during the fag end of his/her life. The Bank who

has advanced the loan has to realise such amounts from the property after the demise of the senior citizen. In this case, the Bank has found that any amounts advanced could not be recovered from the property which was offered as mortgage. This Court would not interfere with such decision of the Bank.

Resultantly, the writ petition would stand dismissed. No costs.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]