

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

WP(C).No. 25108 of 2015 (K)

PETITIONER :

**M.S.TAHA
S/O. MEERA SAHIB, VELIYIL PARAMBIL HOUSE
KAVANADU P.O., KUREEPUZHACHERIYIL,
KOLLAM DISTRICT.**

**BY ADVS.SRI.B.KRISHNA MANI
SRI.RAHUL VENUGOPAL**

RESPONDENT(S) :

**1. THE RECOVERY OFFICER
DEBTS RECOVERY TRIBUNAL (KERALA & LAKSHADWEEP)
VIIIITH FLOOR, KERALA STATE HOUSING BOARD BUILDING
PANAMPILLY NAGAR, ERNAKULAM - 682 036.**

**2. THE MANAGER
THE SOUTH INDIAN BANK LTD.,
KOLLAM - 691 001.**

**R1 BY ADVS. SRI.N.NAGARESH, ASGI
SMT.MINI RAJAN, CGC
R2 BY ADV. SRI.K.K.JOHN, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 25108 of 2015 (K)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1 - TRUE COPY OF THE DOCUMENT DT. 22.01.2005.
- EXT. P2 - TRUE COPY OF THE RECEIPT DT. 25.5.1996.
- EXT. P3 - TRUE COPY OF THE PLAN IN RESPECT OF THE UNIT BY NAME 'SAHIB MATCH WORKS'.
- EXT. P4 - TRUE COPY OF THE REGISTRATION CERTIFICATE DT. 31.8.1992.
- EXT. P5 - TRUE COPY OF THE PROCEEDING DT. 23.2.2007 ISSUED BY THE DISTRICT COLLECTOR, KOLLAM.
- EXT. P6 - TRUE COPY OF THE PROCLAMATION FOR SALE DT. 18.2.2010 ISSUED BY THE RECOVERY OFFICER.
- EXT. P7 - TRUE COPY OF THE JUDGMENT DT. 04.10.2013 IN WPC NO. 23426/2013 BEFORE THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM.
- EXT. P8 - TRUE COPY OF THE REPRESENTATION DT. 21.7.2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 25108 of 2015

Dated this the 20th day of August, 2015

JUDGMENT

The petitioner claims to be in possession of the portion of the property mortgaged with the Bank by the borrower. The petitioner, admittedly, has not title to the property. The petitioner claimed that it is based on the agreement with legal heirs of the borrower. The petitioner submitted that he is prepared to discharge the liability to the extent value of the property held by him.

2. The petitioner relies upon the judgment of this Court in W.P.(C). No.4386/2014 dated 24.07.2015.

3. The learned counsel for the Bank opposed the prayer of the petitioner. It is also submitted that the petitioner has no *locus standi* and the petitioner has not crystallized right over the property.

4. However, in view of the fact that the petitioner is only a request for discharging the liability to the extent value of the property claimed by him as per Ext.P1 without considering the issue relating to the right of interest of the

petitioner, if the petitioner prepares to pay the proportionate value of the property, the Bank shall accept the same. For all other purpose implementing the above directions, the judgment in W.P.(C).No.4386/2014 shall be followed.

The writ petition is disposed of as above.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE

bpr