IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

WP(C).No. 25424 of 2015 (C)

PETITIONER :

ROSAMMA P.A.,
PROPRIETOR, ROSE GRANITES, EP-1-296/E, KALLODY
EDAVAKA P.O., WAYANAD, KERALA, PIN-670 645.

BY ADV. DR.GEORGE ABRAHAM

RESPONDENT(S) :
----

1. H.D.F.C BANK LTD.,
H.D.F.C. BANK HOUSE, SENAPATI BAPAT MARG
LOWER PAREL (WEST), MUMBAI-400 013
REPRESENTED BY ITS GENERAL MANAGER.

2. H.D.F.C BANK LTD.,
BUSINESS BANKING DIVISION
REPRESENTED BY ITS MANAGER (LEGAL), COCHIN BRANCH
S.L.PLAZA, ERNAKULAM.

3. H.S.F.C RETAIL LOAN SERVICES CENTRE
SIMAX TOWER, KANNUR ROAD, NADAKKAVU
CALICUT-11.

R1 & R2 BY ADV. SRI.T.RAJESH, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 25424 of 2015 (C)

APPENDIX

PETITIONERS' EXHIBITS :

EXT.P1. **TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT DATED 8/5/2015.**

EXT.P2. **TRUE COPY OF THE DETAILS OF ACCOUNT MAINTAINED BY THE 1ST RESPONDENT BANK.**

EXT.P3. **TRUE COPY OF THE ORDER OF ATTACHMENT PASSED BY THE DEBT RECOVERY TRIBUNAL ON 18/5/2015.**

EXT.P4. **TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 4/7/2015.**

RESPONDENT(S)' EXHIBITS : NIL
--

//TRUE COPY//

P.A. TO JUDGE

Mn

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 25424 of 2015

Dated this the 21st day of August, 2015

JUDGMENT

The petitioner availed a construction equipment loan from the 3rd respondent-Bank. Consequent of default, the respondent-Bank approached the Debts Recovery Tribunal and filed I.A. No.1177/2015 in O.A. No.209/2015. By virtue of interim attachment order, the equipment which is 'Tata Hitachi' has been attached and possession has been taken through the Advocate Commissioner. Ext.P4 is the notice issued by the Advocate Commissioner.

2. The petitioner seeks release of the vehicle 'Tata Hitachi'.

3. The learned counsel for the Bank opposed and submits that apart from the vehicle, no other security has been provided to the petitioner and more than Rs.26 lakhs is due from the petitioner and the overdue amount is more than Rs.13 lakhs.

4. The learned counsel for the petitioner disputes the amount.

5. This Court is not entering upon questions to decide the quantum of liability. However, taking note of the contention of the petitioner, as he wants to release the vehicle, following directions are issued :

i) If the petitioner pays ½ of the overdue amount and furnishing the security to the satisfaction of the Bank for entire amount, the Bank shall release the vehicle to the petitioner. This shall be done within one month from today.

ii) The balance overdue amount shall be paid immediately after one month of releasing the vehicle along with regular EMI.

iii) In case of default, the respondent-Bank is free to proceed against the security as well as the vehicle in accordance with law.

iv) The petitioner shall produce a copy of this Order before the Debts Recovery Tribunal and the Debts Recovery Tribunal shall note this Order for all other purposes.

The writ petition is disposed of as above. No costs.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE

bpr