

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WP(C).No. 28931 of 2015 (N)

PETITIONER:

**P.M ELDHOSE, AGED 48 YEARS
S/O. LATE MR. MATHAI, RESIDING AT PYNADATH HOUSE
PULIYANAM P.O., ANGAMALY, ERNAKULAM - 683 572.**

**BY ADVS.SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SMT.SAVITHA GANAPATHIYATAN
SRI.M.M.SHAJAHAN**

RESPONDENTS:

- 1. UNION OF INDIA
MINISTRY OF FINANCE, DEPARTMENT OF FINANCE SERVICES
3RD FLOOR, JEEVAN DEEP BUILDING, SANSAD MARG
NEW DELHI -110 001
REPRESENTED BY ITS FINANCE SECRETARY.**
- 2. FEDERAL BANK LIMITED,
REGISTERED OFFICE, ALUVA P.O
ERNAKULAM DISTRICT - 683 101
REPRESENTED BY ITS MANAGING DIRECTOR.**
- 3. SENIOR MANAGER,
FEDERAL BANK LIMITED, POOVATHUSSERY BRANCH
PARAKKADAVU P.O, KURUMASSERY, ERNAKULAM - 683 579.**
- 4. ANTONY SEBASTIAN, AGED 57 YEARS
S/O. LATE MR. PAULO SEBASTIAN
CHIEF MANAGER (AUTHORISED OFFICER UNDER SARFAESI ACT)
FEDERAL BANK LIMITED
STRESSED ASSET MANAGEMENT CELL, FEDERAL TOWER
1ST FLOOR, MARINE DRIVE, SHANMUGHAM ROAD P.O.
ERNAKULAM - 682 031.**

5. INDIRA DEVI S. (AGE AND FATHERS/HUSBAND'S NAME NOT KNOWN TO PETITIONER)

**CHIEF MANAGER,(AUTHORISED OFFICER UNDER SARFAESI ACT
FEDERAL BANK LIMITED, STRESSED ASSET MANAGEMENT CELL
FEDERAL TOWER, 1ST FLOOR, MARINE DRIVE
SHANMUGHAM ROAD P.O., ERNAKULAM - 682 031.**

6. RESERVE BANK OF INDIA,

**DEPARTMENT OF BANKING SUPERVISION, 21ST FLOOR
CENTRAL OFFICE BUILDING, SHAHID BHAGAT SINGH MARG
FORT MUMBAI, MAHARASHTRA - 400 001
REPRESENTED BY ITS EXECUTIVE DIRECTOR.**

7. CENTRAL REGISTRAR

**CENTRAL REGISTRY FOR SECURITISATION AND SECURITY INTEREST
OF INDIA
5TH FLOOR, MTNL TELEPHONE EXCHANGE BUILDING
8-BHIKAJI CAMA PALACE, NEW DELHI - 110 066.**

R1 BY SRLSUVIN R.MENON, CGC

R1 BY SRL.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

R5 BY ADVS. SRI.A.ANTONY

SMT.LEELAMMA ANTONY

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
08-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 28931 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1- TRUE COPY OF THE ORIGINAL PASS BOOK ISSUED BY THE 3RD
RESPONDENT**

EXHIBIT-P2- TRUE COPY OF THE ORIGINAL APPLICATION NO. 470/2014

EXHIBIT-P3- TRUE COPY OF THE DEMAND NOTICE PRODUCED IN EXHIBIT-P2

**EXHIBIT-P4- TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE 2ND
RESPONDENT.**

**EXHIBIT-P5- TRUE COPY OF THE SECURITISATION APPLICATION NO., 22 OF
2015 FILED BY THE PETITIONER.**

**EXHIBIT-P5(A)-TRUE COPY OF THE INTERLOCUTORY APPLICATION NO. 107 OF
2015 FILED ALONG WITH SECURITISATION APPLICATION NO.
22/2015.**

**EXHIBIT-P6- TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE
COMMISSIONER**

RESPONDENT(S)' EXHIBITS:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.28931 OF 2015 (N)

Dated this the 8th day of December, 2015

J U D G M E N T

The grievance of the petitioner in the writ petition is against the recovery steps initiated by the respondent bank against the property of the petitioner for recovery of the defaulted loan amounts, at a time when the petitioner has already approached the Debts Recovery Tribunal [DRT], Ernakulam, through Ext.P5 Securitisation application [S.A.].

When the matter was taken for orders today, it is pointed out by counsel for the respondent bank that the petitioner has already preferred an interlocutory application in the pending S.A. before the DRT and hence cannot pray for the same relief in these proceedings under Article 226 of the Constitution of India. Taking note of the said submission of counsel for the respondent bank and finding that Ext.P5 (A) application has already been filed by the petitioner before the DRT, I dispose the writ petition by directing the DRT, Ernakulam, to consider and pass orders on Ext.P5(A) application filed by the

petitioner in S.A.No.22/2015, within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner. The interim order of stay, against recovery proceedings, granted by this Court in the present writ petition shall continue to be in force till such time as orders are passed by the DRT, as directed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/9/12/15