IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 29082 of 2015 (I)

PETITIONER(S) :

PRADEEPKUMAR, AGED 46 YEARS,
S/O.NARAYANAN NAIR, THUNDIYIL HOUSE, ANNAMANADA P.O,
MELADOOR, PIN- 680 741.

BY ADVS.SRI.C.A.CHACKO
SRI.SEBY JOSEPH
SMT.C.M.CHARISMA
SMT.MEGHA K.XAVIER

RESPONDENT(S):

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1. CHIEF MANAGER,
FEDERAL BANK LIMITED, ASSET RECOVERY BRANCH,
GROUND FLOOR, FEDERAL TOWERS, MARINE DRIVE,
ERNAKULAM - 82 031.

2. THE BRANCH MANAGER,
FEDERAL BANK LIMITED, ANNAMANADA BRANCH,
THRISSUR DISTRICT, PIN- 680 741.

3. MOHANAN, AGED 52 YEARS,
S/O.MAMUNNY, PALAPPARAMBIL HOUSE, ANNAMANADA,
P.O MELADOOR, PIN- 680 741.

R1 & R2 BY ADVS. SRI.A.ANTONY
SMT.LEELAMMA ANTONY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 29082 of 2015 (I)
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APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF SALE DEED DATED 26.06.2013.

EXHIBIT P2: TRUE COPY OF TAX RECEIPT DATED 07.09.2015.

EXHIBIT P3: TRUE COPY OF PUBLICATION IN KERALA KAUMUDI DATED 28.03.2013.

EXHIBIT P4: TRUE COPY OF THE PAPER PUBLICATION DATED 23.08.2015 IN MALAYALA MANORAMA DAILY.

EXHIBIT P5: TRUE COPY OF FIR IN CRIME NO.1085/2015 OF MALA POLICE STATION.

EXHIBIT P6: TRUE COPY OF THE ENCUMBRANCE CERTIFICATE FROM 01.01.2013 TO 23.06.2015.

RESPONDENT(S)' EXHIBITS :
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 29082 of 2015

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Dated this the 6th day of November, 2015

JUDGMENT

The petitioner, who is stated to be the purchaser of an item of immovable property from the 3rd respondent, is aggrieved by the steps taken by the respondent bank against the said item of immovable property for recovery of defaulted loan amounts of the 3rd respondent. It is the case of the petitioner that he was not aware of the fact that the 3rd respondent had mortgaged the property with the respondent bank for obtaining a loan from the said bank, and he had purchased the property from the 3rd respondent on the assurance that the 3rd respondent had a valid title over the property and that the property was not encumbered in any way. The petitioner states that the 3rd respondent had assured the petitioner that the original title deed was misplaced and it was under those circumstances that the sale agreement was entered into without perusing the original title deeds pertaining to the property.

2. The learned counsel for the respondent bank would submit that the bank does not have any objection to receiving payments on behalf of the 3rd respondent from the petitioner. It is submitted that the title deeds pertaining to the property can

however be handed over only to the 3rd respondent, who had mortgaged the same to the respondent bank.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, and finding that it is in the interest of the petitioner to retain possession of the residential property which was stated to have been purchased by the petitioner from the 3rd respondent, I dispose the writ petition with the following directions:

(i) The total outstanding amount, from the 3rd respondent to the respondent bank as per the loan account, is stated to be Rs.21,85,260/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.21,85,260/- together with accrued interest in six equal and successive monthly installments commencing from 30.11.2015, then further proceedings for recovery as against the property shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits a default in respect of any of the installments, he will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

(iii) It is made clear that, on the petitioner paying the aforesaid amount of Rs.21,85,260/- together with accrued interest, as directed in this judgment, the respondents shall treat the loan account as closed, but the title deed in respect of the property shall be kept in their custody till such time as the petitioner approaches them with an order from a competent Court for obtaining release of the same, or approaches them along with the 3rd respondent with a letter of consent from the 3rd respondent to deliver the title deeds of the property to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /06.11.15