

VivekanandA. Vs. the Authorized Officer

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Court : Kerala

Decided On : Feb-20-2014

Judge : Honourable Mr.Justice P.R.Ramachandra Menon

Appellant : VivekanandA.

Respondent : The Authorized Officer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON THURSDAY, THE 20TH DAY OF FEBRUARY 2014 1ST PHALGUNA, 1935 WP(C).No. 5051 of 2014 (F) ----- PETITIONER : ----- VIVEKANANDA, AGED 45 YEARS, S/O.V.SHANMUGHA KOUNDER, KULLARAYAN PALAGAM PALANIYAR PALAYAM P.O., KOZHINJAMPARA PALAKKAD-678555. BY ADV. SRI.U.BALAGANGADHARAN RESPONDENTS : ----- 1. THE AUTHORIZED OFFICER UNDER SARFAESI ACT AND CHIEF MANAGER, THE FEDERAL BANK LTD., ZONAL OFFICE, FEDERAL BANK LTD.ZONAL OFFICE, FEDERAL TOWERS, MAVOOR ROAD, KOZHIKODE-673016.

2. THE AUTHORIZED OFFICER THE FEDERAL BANK LTD., REGIONAL OFFICE, SANJO TOWERS, OPP.KSRTC BUS STATION, PALAKKAD -678014.

3. THE MANAGER THE FEDERAL BANK LTD., CHITTUR, PALAKKAD-678553. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 2002-

2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: BP
WP(C).No. 5051 of 2014 (F) ----- APPENDIX PETITIONER(S)'
EXHIBITS ----- EXHIBIT P1: TRUE COPY OF THE SALE DEED
NO.638/2009 OF SRO CHITTUR, PALAKKAD. EXHIBIT P2 : TRUE COPY OF
THE LAST BASIC TAX RECEIPT DT.12-6-2013 ISSUED BY THE VILLAGE
OFFICER, KOZHINJAMPARA. EXHIBIT P3 : TRUE COPY OF THE
POSSESSION CERTIFICATE DT.26-10-2013 ISSUED BY THE VILLAGE
OFFICER, KOZHINJAMPARA. EXHIBIT P4 : TRUE COPY OF THE R.C.BOOK
OF TRACTOR NO.KL9 Y2445 EXHIBIT P5 : TRUE COPY OF THE RECEIPT OF
AGRICULTURAL WORKERS WELFARE BOARD DT.12-6-2013. EXHIBIT P6 :
TRUE COPY OF THE CERTIFICATE ISSUED BY AGRICULTURAL OFFICER
KRISHI BHAVAN KOZHINJAMPARA DT.NIL. EXHIBIT P6A : TRUE COPY OF
THE VERIFIED CERTIFICATE ISSUED BY AGRICULTURAL OFFICER KRISHI
BHAVAN, KOZHINJAMPARA DT.18-2-2014. EXHIBIT P7 : TRUE COPY OF THE
PERMIT ISSUED BY GROUND WATER AUTHORITY DT.28-6-2010. EXHIBIT P8
: TRUE COPY OF THE FOLIOS OF PASS BOOK ISSUED BY R3 IN RESPECT
OF LOAN NO.1646900000089. EXHIBIT P9 : TRUE PHOTOGRAPHS
PROPERTIES COVERED BY EXT.P1 DOCUMENT. EXHIBIT P10 : TRUE COPY
OF THE POSSESSION NOTICE DT.7-1-2014 ISSUED BY R2. EXHIBIT P11 :
TRUE COPY OF THE SALE NOTICE DT.15-1-2014 ISSUED BY R1.
RESPONDENT(S)' EXHIBITS : NIL. ----- //TRUE COPY// P.A. TO
JUDGE BP P.R. RAMACHANDRA MENON, J.

===== W.P.(C). No. 5051 of 2014
----- Dated this the 20th day of February, 2014

JUDGMENT

The petitioner is challenging the correctness and sustainability of the proceedings pursued by the respondent Bank invoking the remedy under the SARFAESI Act. Many a ground has been raised in the writ petition, in particular that the property concerned is an 'agricultural land' which is outside the purview of the 'Act' by virtue of Section 31 (i) of the said Act. The learned counsel for the petitioner also submits that the petitioner could not approach the DRT due to the fact that the presiding officer recently retired from the office, on attaining the age of superannuation and

that there is no regular sitting.

2. The regular sitting of the DRT has reportedly commenced w.e.f. 12.2.2014 and as such, it is always open for the petitioner to approach the DRT for redressal of his grievance. Moreover, there is a disputed question W.P.(C). No. 5051 of 2014 - 2- of fact, as to whether the property concerned is an agricultural land excluded by virtue of Section 31(i) or not. There cannot be interference by this Court as a matter of course, in view of the legal question made clear by the Apex Court as per the decision reported in Union Bank of India vs. Satyawati Tondon and others [(2010) 8 SCC110. In view of the above, this writ petition is dismissed of without prejudice to the rights of the petitioner to move the DRT. Sd/- P.R. RAMACHANDRA MENON JUDGE kvr/ /True copy/ P.S. to Judge

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