

Mujeeb Rahman Vs. the Authorized Officer

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Court : Kerala

Decided On : Jul-23-2014

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Mujeeb Rahman

Respondent : The Authorized Officer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN WEDNESDAY, THE 23RD DAY OF JULY 2014 1ST SRAVANA, 1936 WP(C).No. 17459 of 2014 (F) ----- PETITIONER: ----- MUJEEB RAHMAN, S/O. SHOUKATHALI, VALIYA PEEDIAKAL HOUSE, POOKKOTTUMPADAM, NILAMBUR, MALAPPURAM DISTRICT. BY ADV. SRI.T.PRASAD RESPONDENT: ----- THE AUTHORIZED OFFICER, THE NILAMBUR CO-OPERATIVE URBAN BANK LTD. F.1043, NILAMBUR P.O., MALAPPURAM-679 329. BY STANDING COUNSEL SRI.DEVAPRASANTH.P.J.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-07-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Kss WP(C).No. 17459 of 2014 (F) ----- APPENDIX PETITIONER(S)' EXHIBITS: ----- EXHIBIT P1 : COPY OF THE NOTICE NO.NCUB/PPM/CC/59 DTD.28.6.2012 ISSUED BY THE RESPONDENTS UNDER SECTION 132) OF THE SARFAESI ACT. EXHIBIT P2 :

COPY OF THE DISCHARGE SUMMARY OF THE PETITIONER ISSUED FROM N.I.M.H.N.S HOSPITAL, BENGALURU. EXHIBIT P3 : COPY OF THE NOTICE DTD.28.5.2014 ISSUED BY THE ADVOCATE COMMISSIONER IN CMP NO.3895/2013. RESPONDENT(S)' ANNEXURES:

----- ANNEXURE R1A: COPY OF THE INTERIM

ORDER

OF THE DEBTS RECOVERY TRIBUNAL IN SA NO.758 OF 2012 DATED 8/10/2012. ANNEXURE R1B: COPY OF THE

ORDER

DATED 13/01/2014 IN WPC.NO.1205 OF 2014 ANNEXURE R1C: COPY OF THE

JUDGMENT

DATED 20/6/2014 IN WPC.NO.1205 OF 2014 /TRUE COPY/ P.S.TO JUDGE Kss K.Vinod Chandran, J.

----- W.P.(C).No.17459 of 2014-F ----- Dated this the 23rd day of July, 2014

JUDGMENT

The petitioner is aggrieved by the recovery proceedings initiated against the property mortgaged to the respondent-Bank. Admittedly a housing loan was availed from the respondent-Bank and default was committed. The petitioner seeks regularisation on payment of the defaulted arrears.

2. The learned Standing Counsel appearing for the respondent-Bank, however, submits that, in fact, the petitioner had approached the Debts Recovery Tribunal [DRT] with a Securitisation Application, in which an interim order was passed, which was not complied with. Again, the petitioner was before this Court in W.P.(C).No.1205 of 2014, in which there was an interim stay, of dispossession, on deposit of Rupees Ten Lakhs. The said order was not WP(C).No.17459 of 2014 - 2 - complied with. Eventually, the writ petition stood dismissed as per Annexure R1c, on the counsel submitting before Court that there is no instruction from the petitioner. In such circumstance, this Court does not find any reason to extend

further equity, invoking the extra-ordinary jurisdiction under Article 226 of the Constitution of India.

3. However, on the plea made by the learned counsel for the petitioner, that, the entire amounts would be paid in three monthly instalments and also considering the fact that the Bank has not proceeded with the sale as such, the petitioner shall pay off the entire arrears in three monthly instalments, starting from 23.08.2014 and followed up on the 23rd of September and October, 2014. To facilitate such deposit, the Bank shall issue a statement of arrears as on 15.08.2014. On the petitioner remitting the entire arrears due, as disclosed in the statement, in three monthly instalments, the Bank shall give a statement of the future interest from 15.08.2014, which shall be settled by the WP(C).No.17459 of 2014 - 3 - petitioner on the very next month. If one single default is committed in the instalment granted by this Court, the Bank would be entitled to proceed with the recovery proceedings. The possession of the property shall be retained with the Bank and shall be handed over only after the entire dues are settled. The writ petition is disposed of as above. There shall be no order as to costs. Sd/- K.Vinod Chandran, Judge vku. (true copy)

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