

Rafeek vs Regional Manager

Rafeek vs Regional Manager

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Court : Kerala

Decided On : Jul-31-2024

Judge : Honourable Mr. Justice D. K. Singh

Appeal No. : WP(C)/7667/2024

Appellant : Rafeek

Respondent : Regional Manager

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946
WP(C) NO. 7667 OF 2024 PETITIONER: RAFEEL AGED 48 YEARS
S/O SHIHABUDEEN TOLL JUNCTION CHULLIMANOOR PO ANAD
VILLAGE NEDUMANGAD TALUK THIRUVANTHAPURAM, PIN -
695541 BY ADV M.R.SARIN RESPONDENTS:

1 REGIONAL MANAGER CANARA BANK REGIONAL OFFICE
LEKSHMI BHAI TOWERS PUKALAKKATTU T.D ROAD KOCHI, PIN -
682035 2 THE CHIEF MANAGER ,CANARA BANK ARM BRANCH, 2ND
FLOOR CANARA BANK BUILDING CHITTOR ROAD ERNAKULAM,

PIN - 682016 3 THE MANAGER CANARABANK KAMUKINCODE
BRANCH NEYYANTTINKARA THIRUVANTHAPURAM, PIN - 695126
BY ADVS. Gopikrishnan Nambiar M K.JOHN MATHAI(K/413/1984)
JOSON MANAVALAN(J-526) KURRYAN THOMAS(K/131/2003)
PAULOSE C. ABRAHAM(MAH/58/2006) RAJA KANNAN(K/356/2008)

SRI.M. GOPIKRISHNAN NAMBIAR-SC THIS WRIT PETITION (CIVIL)
HAVING BEEN FINALLY HEARD ON 31.07.2024, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 31st day of July, 2024 The present writ petition has been filed for writ of mandamus/direction in the nature of mandamus commanding the respondent bank to refund an amount of Rs.17,12,500/- paid by the petitioner to the bank in respect of the auction conducted by the bank of the secured asset of one borrower Smt.Annamma Saji. The said amount was 25% of the value of the asset fixed by the bank. In view of the judgment passed by this Court dated 23.01.2024 in W.P.(C.) No.41763/2023 filed by the borrower, the borrower was given time to deposit Rs.30,00,000/- within 15 days and and make a proposal for One Time Settlement. In the said judgment, it was also recorded that the purchaser had been given refund of 25% of the amount paid by the petitioner/purchaser.

2. The learned counsel for the petitioner submits that

after the petitioner received notice of the said writ petition, the petitioner did not pay the balance amount, and approached the bank for refund of the amount in view of the pendency of the W.P.(C.) No.41763/2023 filed by the borrower. The learned counsel for the petitioner further submits that instead of refunding the amount to the petitioner, the amount paid by him has been forfeited by the bank.

3. After the judgment dated 23.01.2024 passed in

W.P.(C.) No.41763/2023, the bank has preferred R.P No.325 of 2024, stating that wrong submission was recorded by the Court that the auction purchaser had been refunded the amount paid by him as the auction had been cancelled. R.P No.325 of 2024 came to be allowed and the order dated 23.01.2024 was clarified that 25% of the reserved price deposited by the purchaser had been forfeited, as the purchaser failed to pay the balance purchase price.

4. The petitioner has not challenged the said order

and he has filed this writ petition. The question whether the bank was entitled to forfeit the amount or not is question to be decided in appropriate proceedings and not by this Court in the present writ petition. In view thereof, the present writ petition is disposed of, with liberty to the petitioner to take recourse any other remedy as may be available to him, under the law, for the reliefs sought in this writ petition and if the petitioner files appropriate proceedings within a period of fifteen days from today, the concerned Court/Tribunal shall proceed to dispose of the said proceedings, in accordance with law on merit, without going into the question of limitation. Sd/- DINESH KUMAR SINGH JUDGE AP APPENDIX OF WP(C) 7667/2024 PETITIONER EXHIBITS Exhibit P1 THE TRUE COPY OF JUDGEMENT IN WP[C]NO Exhibit P2 THE TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT ON Exhibit P3 THE TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT ON Exhibit P5 THE TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT ON Exhibit P6 THE TRUE COPY OF THE CONFIRMATION LETTER ISSUED BY AUTHORIZED OFFICER CANARA BANK DATED 2.12.2023 TO THE APPLICANT Exhibit P7 THE TRUE COPY OF THE LETTER ISSUED BY THE AUTHORIZED OFFICER CANARA BANK DATED 22.12.2023 TO THE APPLICANT Exhibit P8 THE TRUE COPY OF THE LETTER GIVEN BY APPLICANT TO THE AUTHORIZED OFFICER DATED 29.12.2023 Exhibit P9 THE TRUE COPY OF THE LETTER ISSUED BY THE AUTHORIZED OFFICER CANARA BANK DATED 30.12.2023 TO THE APPLICANT I Exhibit P10 THE TRUE COPY OF THE LETTER ISSUED BY THE APPLICANT TO AUTHORIZED OFFICER CANARA BANK DATED 31.12.2023 Exhibit P11 THE

TRUE COPY OF LETTER ISSUED TO BY THE AUTHORIZED OFFICER
CANARA BANK TO THE TO THE APPLICANT ON 12.1.2024 RESPONDENT
ANNEXURES Annexure R1 (a) True copy of letter dated 08.12.2023 submitted by
the Petitioner to the 3rd respondent Annexure R1 (b) True copy of the case status
of WP(C) No. 41763 of 2023 as available on the website of this Hon'ble Court

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