

Murali E.K, vs State Bank of India Rep by Its Authorized Officer

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Court : Kerala

Decided On : Aug-18-2023

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : WP(C)/26844/2023

Appellant : Murali E.K,

Respondent : State Bank of India Rep by Its Authorized Officer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 18TH DAY OF AUGUST 2023 / 27TH SRAVANA, 1945 PETITIONER: MURALI E.K., AGED 52 YEARS, S/O. KRISHNANKUTTY, ERATH HOUSE, MULLASSERY P.O., THRISSUR DISTRICT REPRESENTED BY HIS POWER OF ATTORNEY HOLDER, SMT. SAJINI MURALI, AGED 47 YRS, W/O. MURALI E.K., ERATH HOUSE, MULLASSERY P.O., THRISSUR DISTRICT-680509. BY ADV. E.V.MOLY RESPONDENT: STATE BANK OF INDIA REPRESENTED BY ITS AUTHORIZED OFFICER (ERSTWHILE SBT MULLASSERRY) ASSET RECOVERY MANAGEMENT BRANCH, 1ST FLOOR, R.S. BUILDING, M.G.ROAD, ERNAKULAM, PIN-682 011. THIS WRIT PETITION (CIVIL)

HAVING COME UP FOR ADMISSION ON 18.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

C.S. DIAS, J.

Dated this the 18th day of August, 2023

JUDGMENT

This writ petition is filed to direct the respondent to keep in abeyance all further recovery proceedings pursuant to Ext.P5 notice.

2. The petitioner's case is that aggrieved by the

recovery proceedings initiated by the respondent Bank, the petitioner proposes to challenge the same before the Debts Recovery Tribunal by filing a securitisation application. But the petitioner has not received the documents from the jurisdictional Magistrate.

3. Pursuant to the order dated 16.08.2023, the Jurisdictional Magistrate has informed this Court that the certified copy of the order has been issued on 17.08.2023. -3-

4. Heard Smt. E.V. Moly, the learned counsel for the petitioner and Sri. Jithesh Menon, the learned counsel for the respondent.

5. In the light of the above communication of the

jurisdictional Magistrate, I am of the view that the writ petition has become infructuous. Nevertheless, I am of the opinion that the petitioner should be granted a breathing time to challenge the proceedings before the Tribunal. Resultantly, the writ petition is dismissed as infructuous but by directing the respondent to defer further recovery proceedings pursuant to Ext.P5 till 08.09.2023 to enable the petitioner to work out his statutory remedies. Sd/- C.S. DIAS JUDGE bpr -4- APPENDIX OF WP(C) 26844/2023 PETITIONER'S EXHIBITS Exhibit P 1 THE TRUE COPY OF THE DEMAND NOTICE DATED 24.8.2021 RECEIVED BY THE

PETITIONER UNDER SEC 13(2) OF THE SARFAESI ACT. Exhibit P2 THE TRUE COPY OF THE POSSESSION NOTICE DATED 19.1.2022 ISSUED BY THE RESPONDENT BANK. Exhibit P3 THE TRUE COPY OF THE JUDGMENT DATED 21.2.2022 IN WPC NO.5733/2022. Exhibit P4 THE TRUE COPY OF THE ORDER DATED 05-05-2022 IN OP 40/2019 ISSUED BY NON-RESIDENT INDIANS (KERALITE) COMMISSION. Exhibit P5 THE TRUE COPY OF THE NOTICE DATED 31.07.2023 ISSUED BY THE ADVOCATE COMMISSIONER AND RECEIVED BY THE PETITIONER. Exhibit P6 THE TRUE COPY OF THE APPLICATION FILED BEFORE HON'BLE CJM.

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