

Platinum Super Structures Pvt.Ltd., vs State Bank of India,

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Court : Kerala

Decided On : Mar-08-2022

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/3995/2022

Appellant : Platinum Super Structures Pvt.Ltd.,

Respondent : State Bank of India,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN TUESDAY, THE 8TH DAY OF MARCH 2022 / 17TH PHALGUNA, 1943 PETITIONER: PLATINUM SUPER STRUCTURES PVT.LTD., REG. OFFICE 36/2176 D, PLATINUM HOUSE, KALOOR, ERNAKULAM-682 017, REPRESENTED BY ITS DIRECTOR K.NANDANAN. BY ADV V.A.VINOD RESPONDENTS: 1 STATE BANK OF INDIA, RETAILED ASSETS CENTRALISED PROCESSING CENTRE, RACPC, 1ST FLOOR, VENKARATH TOWERS, BYE PASS JUNCTION, PALARIVATTOM, ERNAKULAM-682 024, REPRESENTED BY AUTHORISED OFFICER. 2 THE SUB REGISTRAR, CHENGAMANAD SUB REGISTRAR OFFICE, DESOM, ALUVA,

ERNAKULAM-682 102. 3 THE VILLAGE OFFICER, NEDUMBASSERY VILLAGE OFFICE, MEKKAD, NEDUMBASSERY, ERNAKULAM-683 589. BY ADV S.EASWARAN OTHER PRESENT: SRI.S.EASWARAN.S.C AND SMT.K.AMMINIKUTTY SR.G.P. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08.03.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner, which is a company registered under the provisions of the Companies Act, 1956, singularly prays that the 2nd respondent - Sub Registrar, be directed to register a Sale Deed with respect to Flat No.D in the ground floor of Platinum

Airport Lounge at Nedumbassery, de hors the order

of attachment brought over it by the 1 st respondent - State Bank Of India from the Debts Recovery Tribunal (DRT).

2. Sri.V.A. Vinod - learned counsel appearing

for the petitioner, submitted that the entire loan liability to the 1st respondent - Bank with respect to the apartment in question has already been honoured and that they have permitted registration of the document as has been prayed for in this writ petition. He added that his client is, however, facing a practical difficulty in obtaining orders lifting the attachment from the DRT, because it is now not sitting.

3. Smt.Rajeswari, representing Sri.S.Easwaran

- learned Standing Counsel for the respondent - Bank, affirmed the afore submissions of Sri.V.A.Vinod and added that her client has no objection in the document in question being registered, conceding that the loan liability as regards the apartment in question has been honoured.

4. The learned Senior Government Pleader -

Smt.K.Amminikutty, submitted that merely because the 1st respondent has no objection in registering the Sale Deed, the Sub Registrar may not be directed to do so because, under the provisions of Section 89(5) of the Registration Act, the entry of attachment is already reflected in the Revenue Records, as per the orders of the DRT. She submitted that, therefore, unless the said Tribunal issues a specific order lifting the attachment, it will not be possible for the Sub- Registrar to act as per the request of the petitioner.

5. I must say that, in normal circumstances, the

afore submissions of the learned Senior Government Pleader would be apposite. However, there is a specific intervening special circumstance involved in this case, namely, that the DRT is not sitting for the last several months, nor has it resumed as of now. Therefore, as per the directions of the honourable Supreme Court, it is now obligated on this Court to act in the manner as the DRT would have done; and therefore, am of the view that merely for the reasons stated by the learned Senior Government Pleader, relief to the petitioner

cannot be delayed, especially when the Bank has no objection. In the afore circumstances and taking specific

note of the circumstances that the DRT is not presently sitting for the last several months, I order this writ petition and direct the Sub Registrar to register the document in question de hors the attachment brought on it by the State Bank of India, as expeditiously as is possible, but not later than two weeks from the date on which same is presented before him.

As far as the petitioner and the Bank is concerned, they are obligated to approach the DRT and obtain formal orders lifting the attachment in question, which shall then be communicated to the Sub Registrar, who will, for the purpose of the records, incorporate it in the books as per law thereafter. This

shall be done within a period of two months from the date on which the DRT resumes its sitting. Sd/- DEVAN RAMACHANDRAN JUDGE ANB APPENDIX OF WP(C) 3995/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE

ORDER IN IA NO.712/2020 IN OA NO.196/2020 DATED 12.06.2020. Exhibit P2 TRUE COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT DATED 29.03.2021. Exhibit P3 TRUE COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT DATED 12.11.2021.

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