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Sunil Kumar vs Kerala State Co-Operative Bank Limited

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Court : Kerala

Decided On : Jun-30-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : OP (DRT)/281/2022

Appellant : Sunil Kumar

Respondent : Kerala State Co-Operative Bank Limited

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. THURSDAY, THE 30TH DAY OF JUNE 2022 / 9TH ASHADHA, 1944 OP (DRT) NO. 281 OF 2022 AGAINST THE ORDER/JUDGMENT IN SA 245/2022 OF DEBT RECOVERY TRIBUNAL, ERNAKULAM PETITIONER: SUNIL KUMAR AGED 50 YEARS S/O KUTTIKRISHNAN AGED 50 YEARS , KALLUMPURATH HOUSE MULLAMBATH P.O, KOZHIKKODE, PIN - 673507 BY ADV S.K.SAJU RESPONDENT: KERALA STATE CO-OPERATIVE BANK LIMITED KERALA STATE CO-OPERATIVE BANK LIMITED, P.B.NO.503, P.O. CHALAPPURAM. KALLAI ROAD,KOZHIKKODE, KERALA, REPRESENTED BY ITS SENIOR MANAGER/AUTHORIZED OFFICER, PIN - 673002 SRI.P.C.

SASIDHARAN -SC THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR ADMISSION ON 30.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: O.P.(DRT)No.281/2022 2

JUDGMENT

This Original Petition (DRT) has been filed projecting the grievance that though the petitioner has filed Securitisation Application before the Debt Recovery Tribunal against the proceedings initiated under the Securitistaion and Reconstruction of Financial Assets and Enforcement of Security Interest Act (hereinafter referred to as the SARFAESI Act), the respondent bank is proceeding to take physical possession of the secured asset. It is submitted that though the Securitisation Application along with stay application was filed in the month of May, the matter is now listed to be considered on 21.7.2022. It is submitted that the secured asset in question is an agricultural land to which the provisions of Securitisation Act do not apply. Obviously, this is a matter to be adjudicated by the Debt Recovery Tribunal. In order to enable the petitioner to purse his remedies before the Debt Recovery Tribunal, it is directed that the taking of physical possession of the petitioner's property shall stand deferred till 21.7.2022. The Debt Recovery Tribunal before which the petitioner's applications are pending shall endeavour to pass orders, interim or final on the applications preferred by the petitioner, on 21.7.2022. The Original Petition (DRT) is disposed of as above. Sd/- GOPINATH P. JUDGE acd O.P.(DRT)No.281/2022 3 APPENDIX OF OP (DRT) 281/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE DEMAND NOTICE DATED 05-10-

2019 ISSUED BY THE RESPONDENT BANK UNDER SECTION 13(2) OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 Exhibit P2 TRUE COPY OF THE POSSESSION NOTICE DATED 19.03.2020 ISSUED UNDER SECTION 13(4) OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002

Exhibit P3 TRUE COPY OF THE ORDER OF HON'BLE CHIEF JUDICIAL MAGISTRATE, KOZHIKKODE, IN M.C. NO.249/2020 BEARING DATE 28-12-2020 Exhibit P4 TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE

COMMISSIONER ON DATED 06-05-2022 Exhibit P5 A TRUE COPY OF THE MEMORANDUM OF S.A(WITHOUT ANNEXURES) FILED BY THE PETITIONER BEFORE THE DRT- I, ERNAKULAM Exhibit P6 A TRUE COPY OF THE APPLICATION FOR STAY FILED BY THE PETITIONER ALONG WITH EXT P3 Exhibit P7 TRUE COPY OF THE COMMISSION APPLICATION FILED ALONG WITH EXT P5 S.A

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