

Shebin De Jes vs the General Manager and Authorised Officer

Shebin De Jes vs the General Manager and Authorised Officer

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Court : Kerala Orders

Decided On : May-14-2021

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : WP(C)/10851/2021

Appellant : Shebin De Jes

Respondent : The General Manager and Authorised Officer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. FRIDAY,
THE 14TH DAY OF MAY 2021 / 24TH VAISAKHA, 1943 PETITIONERS:
1 SHEBIN DE JES AGED 56 YEARS SON OF DENNIS JAMES,
RESIDING AT PEEDIKAPARAYIL HOUSE, MUTTAM P.O., IDUKKI
DISTRICT - 685 587. 2 RAJAN N.S. RESIDING AT NELLANICKAL
HOUSE, KUDAYATHOOR P.O., IDUKKI DISTRICT. 3 MANURAJ N.R.
AGED 29 YEARS SON OF NS RAJAN, RESIDING AT NELLANICKAL
HOUSE, KUDAYATHOOR P.O., IDUKKI DISTRICT. 4 DENNIS JAMES
PEEDIKAPARAYIL, MUTTOM P.O., IDUKKI DISTRICT - 685 587. BY
ADVS. SRI.PRAVEEN.H. SRI.G.HARIHARAN SMT.K.S.SMITHA
SMT.T.T.SHANIBA SRI.M.V.VIPINDAS SHRI.AMAL DEV D

SMT.AKHILA P. SMT.SRILAXMI SURESH RESPONDENTS:

1 THE GENERAL MANAGER AND AUTHORISED OFFICER (APPOINTED UNDER THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002), THODUPUZHA URBAN COOPERATIVE BANK LTD., NO.394, THODUPUZHA-UDUMBANOOR RD., MUTHALAKODAM, IDUKKI DISTRICT - 685 605. 2 THODUPUZHA URABAN COOPEATIVE BANK LTD. NO.394, THODUPUZHA - UDUMBANOOR RD., MUTHALAKODAM, IDUKKI DISTRICT - 685 605. REPRESENTED BY ITS AUTHORISED OFFICER (APPOINTED UNDER THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002). 3 SYAMKUMAR V.R. ADVOCATE COMMISSIONER IN MC 77/2021, MUTTOM BAR ASSOCIATION, MUTTOM COURT COMPLEX, MUTTOM, IDUKKI - 685 587. SC: ATHUL SHAJI THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14.05.2021. THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 14th day of May 2021 The petitioner had filed this writ petition on the specific averment that no fresh notice under Section 13(2) of SARFAESI Act had been issued in the matter. It is stated in the affidavit dated 10.05.2021 in support of IA No.2/2021 that subsequently the petitioner came to know that the Bank had issued a fresh 13(2) notice. The petitioner therefore tenders unconditional apology for approaching this Court by stating incorrect facts. Normally the act of the petitioner would have resulted in this writ petition being dismissed with exemplary costs. However, considering the submissions of the learned counsel for the petitioner and taking a lenient view, this writ petition is dismissed as withdrawn with to liberty to challenge the proceedings initiated by the respondent Bank in accordance with law. Sd/- GOPINATH P. JUDGE Sn
APPENDIX PETITIONER'S/S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE SECTION 13(2) NOTICE DATED WITH POSTAL ACKNOWLEDGMENT CARDS

EVIDENCING RECEIPT OF THE SAME BY THE PETITIONER ON EXHIBIT P2 TRUE COPY OF THE OBJECTIONS DATED BEHALF OF THE PETITIONER ALSO IN REPLY TO EXHIBIT P1 NOTICE. EXHIBIT P3 TRUE COPY OF THE POSTAL ACKNOWLEDGMENT EVIDENCING RECEIPT OF EXHIBIT P2 BY THE 1ST RESPONDENT ON 07/11/2019. EXHIBIT P4 TRUE COPY OF THE PETITION FILED UNDER SECTION 14 OF THE ACT BY THE RESPONDENT AND NUMBERED AS M.C.2/2021 BY CJM, THODUPUZHA. EXHIBIT P5 TRUE COPY OF THE AFFIDAVIT FILED BY THE 1ST RESPONDENT ALONG WITH EXHIBIT P4 PETITION. EXHIBIT P6 TRUE COPY OF THE ORDER DATED 06/01/2021 (INCORRECTLY TYPED AS 06/01/2020 IN THE ORDER) PASSED IN MC 2/2021 BY THE CJM, EXHIBIT P7 TRUE COPY OF THE REPORT FILED BY SRI.BASIL BABU, ADVOCATE COMMISSIONER DATED EXHIBIT P8 TRUE COPY OF THE ORDER DATED 01/02/2021 PASSED IN MC 2/2020 PASSED BY CJM, EXHIBIT P9 TRUE COPY OF THE JUDGMENT DATED 19/01/2021 PASSED IN WP(C) 28922/2020. EXHIBIT P10 TRUE COPY OF THE INTERIM ORDER DATED EXHIBIT P11 TRUE COPY OF THE PROCEEDINGS DATED CJM, IDUKKI. EXHIBIT P12 TRUE COPY OF THE PROCEEDINGS IN MC 77/2021 PENDING BEFORE THE CJM, THODUPUZHA. RESPONDENT'S/S EXHIBITS: NIL //TRUE COPY// PA TO JUDGE

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