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Simon Varghese, vs the Manager,

Simon Varghese, vs the Manager,

SooperKanoon Citation : sooperkanoon.com/1859012

Court : Kerala

Decided On : Feb-28-2019

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/3029/2019

Appellant : Simon Varghese,

Respondent : The Manager,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN THURSDAY ,THE 28TH DAY OF FEBRUARY 2019 / 9TH PHALGUNA, 1940 PETITIONERS: 1 SIMON VARGHESE, AGED 66 YEARS S/O VARGHESE, TC 78/596, PALLIVILAKAM PURAYIDAM, LPS ROAD, KANNANTHARA, BEACH P.O., THIRUVANANTHAPURAM-695 007. 2 SHALLET SIMON AGED 41 YEARS D/O SIMON VARGHESE, TC 78/596, PALLIVILAKAM PURAYIDAM, LPS ROAD, KANNANTHARA, BEACH P.O., THIRUVANANTHAPURAM-695 007. BY ADVS. SMT.V.H.JASMINE SRI.JESWIN P.VARGHESE RESPONDENTS: 1 THE MANAGER, STATE BANK OF INDIA, REPRESENTED BY CHIEF MANAGER,

THIRUVANANTHAPURAM, STRESSED ASSETS RECOVERY BRANCH, CHILD WELFARE COMPLEX, LMS COMPOUND, THIRUVANANTHAURAM-695 033. 2 THE BRANCH MANAGER STATE BANK OF INDIA, VALIYATHURA BRANCH, THIRUVANANTHAPURAM-695 008. 3 ARCIL-ARMS CA DIVISION OF M/S. ASSET RECONSTRUCTION CO-INDIA LTD., REPRESENTED BY ITS AUTHORIZED OFFICER, AT I.G. FIRST FLOOR, CENTURY PLAZA, NO.560 562, ANNASALAI, YENAMPET, CHENNAI-600 018. 4 STATE OF KERALA REPRESENTED BY THE SECRETARY, DEPARTMENT OF FISHERIES, GOVERNMET SECRETARIAT, THIRUVANANTHAPURAM-695 001. 5 KERALA STATE FISHERIES DEBT RELIEF COMMISSION T.C.11/6831 AND 29, NALANDA ROAD, NANTHENCODE, KOWDIAR P.O., THIRUVANANTHAPURAM-695003, REPRESENTED BY ITS SECRETARY. 6 THE DIRECTOR DEPARTMENT OF FISHERIES, SECRETARIAT, THIRUVANANTHAPURAM-695 001. BY ADVS. SRI.B.S.SURESH KUMAR, SC SRI.R.S.KALKURA, SC SRI.T.G.SUNIL, SC, KSFDRC SMT.AMMINIKUTTY-SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28.02.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioners, who are stated to be the legal heirs of deceased Smt.Reeta Simon, have filed this writ petition impugning the recovery action initiated against them by respondents 1 to 3, under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act ('the SARFAESI Act' for brevity) and they assert that no amounts are due from them since, when Smt.Reeta Simon died, the 5th respondent -Kerala State Fisheries Debt Relief Commission, had paid certain amounts, under a settlement, to the 2nd respondent -Bank directly. The petitioners say that consequent to such payment, the Bank cannot recover any further amounts from them.

2. When this matter was taken up today, the learned

counsel appearing for the Bank, Shri.R.S.Kalkura and the learned counsel appearing for the 3 rd respondent -Asset Reconstruction Co. India Ltd, Shri.B.S.Suresh Kumar, say that subsequent to the receipt of the settlement amounts from the 5th respondent -Commission, an Adalath had been conducted by the State Bank of India, wherein certain further amounts were accepted in full and final settlement of the account and therefore, that no further amount is due from the petitioners against the loan account of deceased Smt.Reeta Simon, and consequently, that no further action under the SARFAESI Act will be pursued against them.

3. In view of the afore submissions made on behalf of the

respondents, I close this writ petition without any further orders and direct respondents 1 to 3 not to take any action for recovering amounts from the petitioners against the loan account of deceased Smt.Reeta Simon. Sd/- DEVAN RAMACHANDRAN JUDGE PV APPENDIX PETITIONERS'S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE NOTICE DATED 3.12.2011 ISSUED BY IST RESPONDENT. EXHIBIT P2 TRUE CPY OF THE G.O. 101/2012 DATED 26.12.2012. EXHIBIT P3 TRUE COPY OF THE NOTICE ISSUED BY THE IST RESPONDENT DATED 18.2.2013. EXHIBIT P4 TRUE COPY OF THE LETTER ISSUED BY THE 5TH RESPONDENT DATED 1.3.2013. EXHIBIT P5 TRUE COPY OF THE DEATH CERTIFICATE OF REETA SIMON DATED 26.6.2015. EXHIBIT P6 TRUE COPY OF THE ORDER OF CHIEF JUDICIAL MAGISTRATE COURT IN M.C.NO.462/2018 DATED 6.6.2018. EXHIBIT P7 TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 7.1.2019. EXHIBIT P8 TRUE COPY OF THE LETTER DATED 24.1.2019 ISSUED BY 5TH RESPONDENT TO 2ND RESPONDENT. RESPONDENTS' EXHIBITS: ANNEXURE R1(A) TRUE COPY OF THE LETTER DATED 20.10.2016 ISSUED BY THE 1ST RESPONDENT TO THE 3RD RESPONDENT ANNEXURE R1(B) TRUE COPY OF THE EMAIL COMMUNICATION DATED 05.12.2016 FROM THE 3RD RESPONDENT TO THE 1ST RESPONDENT ANNEXURE R1(C) TRUE COPY OF THE LETTER DATED 08.12.2016 ISSUED BY THE 1ST RESPONDENT TO THE 3RD RESPONDENT \\TRUE COPY// PA TO JUDGE PV

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