



2025:KER:15116

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

FRIDAY, THE 21ST DAY OF FEBRUARY 2025 / 2ND PHALGUNA, 1946

WP(C) NO. 30564 OF 2024

PETITIONER:

JESSY MATHEW,
AGED 58 YEARS,
W/O K.M.MATHEW, KURUMULLUMTHADATHIL, KANAKKARI P.O.,
ETTUMANOOR, KOTTAYAM, PIN - 686632.

BY ADV SAJEEV KUMAR K.GOPAL

RESPONDENTS:

- 1 THE SOUTH INDIAN BANK LTD.,
KOTTAYAM REGIONAL OFFICE, FIRST FLOOR, REGENCY SQUARE,
K.K.ROAD, COLLECTORATE P.O., KOTTAYAM, KERALA,
REPRESENTED BY ITS REGIONAL MANAGER, PIN - 686002.
- 2 THE AUTHORIZED OFFICER,
THE SOUTH INDIAN BANK LTD, KOTTAYAM ,REGIONAL OFFICE,
FIRST FLOOR, REGENCY SQUARE, K.K.ROAD, COLLECTORATE
P.O., KOTTAYAM, KERALA, PIN - 686002.
- 3 THE VILLAGE OFFICER,
THE VILLAGE OFFICE, ETTUMANOOR P.O.,
ETTUMANOOR, PIN - 686631.
- 4 THE TAHSILDAR,
TALUK OFFICE, KOTTAYAM, PIN - 686001.

SMT. LAKSHMY S., SC
SRI.APPU P S, GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21.02.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner is an auction purchaser in respect of certain property brought to sale by the respondent Bank under the provisions of the SARFAESI Act. The petitioner is before this Court being aggrieved by the fact that despite the payment of the full amount of Rs.47 lakhs as early as on 24.11.2023, even today the Bank is not in a position to hand over the property to the petitioner. It is submitted that the property is not included in the Thandaper register and there is no ROR certificate in respect of the property. It is submitted that the competent authority of the respondent Bank may be directed to either ensure that possession of the property is granted to the petitioner along with all supporting documents or the auction amount may be returned to the petitioner within a time frame to be fixed by this Court.

2. The learned counsel appearing for the respondent Bank submits that the Bank is taking every efforts to get the records and has even approached the Taluk Surveyor for the purpose of demarcating and identifying the property.

3. It appears from the record that this Court on 20.11.2024, passed the following order:-



“1. The learned Counsel for the respondent Bank submits that the Bank has cleared the area of the land and has applied before the Tahsildar for demarcating the property and, once the property is demarcated, the Bank will deposit the tax and obtain the ROR certificate and register the sale deed in favour of the petitioner. She further submits that all these processes will take one month time, subject to the co-operation by the Revenue Authorities.

2. Mr. V. S. Sreejith, learned Government Pleader submits that the Revenue Authorities will co-operate with the Bank to take appropriate steps regarding demarcation of the property etc. The Tahsildar will take steps to demarcate the property at the earliest.

3. Considering the stand of the respondent Bank and the revenue authorities, as an interim measure it is provided that, the Bank and the Revenue Authorities will conclude the process of demarcation, payment of tax and proceedings for ROR certificate within a period of one month and get the sale certificate registered in favour of the petitioner. If the Bank and the Revenue Authorities fail to do the needful within a period of one month from today, this Court will pass an order on the next date of posting of this writ petition directing the Bank to refund the amount of sale consideration to the petitioner with applicable interest.

Post this matter on 20.12.2024.”

4. The learned counsel appearing for the respondent Bank submits that despite the directions in the order dated 20.11.2024, the Bank is still not in a position to obtain the necessary records from



the Revenue authorities.

5. The learned Government Pleader submits that as directed in the order dated 20.11.2024, the Revenue Department will co-operate with the Bank authorities provided proper application etc. are made before the Revenue authorities and subject to identification of the properties in question.

Having heard the learned counsel appearing for the petitioner, the learned counsel appearing for the respondent Bank and the learned Government Pleader, I am of the opinion that this writ petition can be disposed of directing the respondent Bank to take all necessary steps to complete the process for obtaining all the necessary records from the Revenue authorities. It will be open to the respondent Bank to approach the Taluk Surveyor for demarcation and identification of the properties that were sold in auction and if such request is made, the Taluk Surveyor will render necessary assistance to the officials of the respondent Bank for the purpose of identifying and demarcating the property in question. If the entire process is not completed within a period of three months from today, the respondent Bank will take steps to cancel the sale and return the money deposited



2025:KER:15116

by the petitioner.

The writ petition is ordered accordingly.

Sd/-
GOPINATH P.
JUDGE

DK



2025:KER:15116

APPENDIX OF WP(C) 30564/2024

PETITIONER EXHIBITS

- | | |
|-------------------|--|
| Exhibit P1 | TRUE COPY OF THE COMMUNICATION DATED 24-11-2023 ISSUED BY THE 2ND RESPONDENT WHEREBY THE SALE WAS CONFIRMED IN THE NAME OF THE PETITIONER |
| Exhibit P2 | TRUE COPY OF THE COMMUNICATION ISSUED BY THE 2ND RESPONDENT DATED 24-11-2023 TO THE PETITIONER REGARDING THE TERMS AND CONDITIONS OF THE SALE |
| Exhibit P3 | TRUE COPY OF THE SALE CERTIFICATE ISSUED BY THE AUTHORIZED OFFICER TO THE PETITIONER DATED 07-12-2013 |
| Exhibit P4 | TRUE COPY OF THE ACKNOWLEDGEMENT ISSUED BY THE OFFICE OF THE 4TH RESPONDENT VIDE NO.628237/24 WITH ENGLISH TRANSLATION |

RESPONDENT EXHIBITS

- | | |
|----------------------|--|
| Exhibit R2 | TRUE COPY OF THE SALE CERTIFICATE DATED 07.12.2023 ISSUED BY THE SECOND RESPONDENT IN FAVOUR OF THE PETITIONER |
| Exhibit R2(a) | TRUE COPY OF THE DEED NO. 1416/1997 DATED 25.03.1997, SRO ETTUMANOOR ALONG WITH ENGLISH TRANSLATION |
| Exhibit R2(b) | TRUE COPY OF THE ENCUMBRANCE CERTIFICATE NO. 1415/2024 DATED 16.02.2024 ISSUED BY SRO ETTUMANOOR ALONG WITH TRANSLATION |
| Exhibit R2(c) | TRUE COPY OF THE TAX RECEIPTS NO. 362703 DATED 02.08.2002 ISSUED BY VILLAGE OFFICER, ETTUMANOOR WITH TRANSLATION |



2025:KER:15116

- | | |
|----------------------|---|
| Exhibit R2(d) | TRUE COPY OF THE POSSESSION CERTIFICATE
NO. 855/2015 DATED 19.06.2015 ISSUED BY
VILLAGE OFFICER ETTUMANOOR ALONG WITH
TRANSLATION |
| Exhibit R2(e) | THE TRUE COPY OF THE SALE NOTICE DATED
03.11.2023 |
| ExhibitR2(f) | TRUE COPY OF THE COMMISSION REPORT DATED
12.07.2023 IS PRODUCED ALONG WITH
TRANSLATION. |
| Exhibit R2(g) | TRUE COPY OF THE RECEIPT 628237/2024
DATED 03.01.2024 ISSUED BY THE FIRST
RESPONDENT BEFORE THE FOURTH RESPONDENT
ALONG WITH TRANSLATION |
| Exhibit R2(h) | TRUE COPY OF THE APPLICATION
NO.ROKTYM/IBC/SAR-63/1330/2023-24 DATED
03.01.2024 BY THE 1ST RESPONDENT TO THE
4TH RESPONDENT |