

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 25689 of 2004(G)

PETITIONER:

**VIJAY EAPEN, KOLLAPARAMBIL,
KADAVATTOOR CASTLE, NANTHENCOD,
THIRUVANANTHAPURAM, REPRESENTED BY
RACHAEL THOMAS, (WIFE AND POWER OF ATTORNEY
HOLDER) RESIDING AT THE SAME ADDRESS.**

**BY ADV. SRI.A.AHZAR
SRI.RAYS JOHN KOSHY**

RESPONDENTS:

- 1. RECOVERY OFFICER,
DHANALAKSHMI BANK, FORT,
THIRUVANANTHAPURAM.**
- 2. M/S.THOMSON ASSOCIATES,
T.C.11/665, NANTHENCOD, THIRUVANANTHAPURAM,
REPRESENTED BY ITS MANAGING PARTNER,
THOMAS CHACKO.**
- 3. THOMAS CHACKO, MANAGING PARTNER,
THOMSON ASSOCIATES, KADUVATTOOR BUILDING,
T.C.11/665, NANTHENCOD, THIRUVANANTHAPURAM
RESIDING AT CE-3, PRS COURT, AMBUJAVILASOM ROAD,
THIRUVANANTHAPURAM.**
- 4. S.LAKSHMANAN, PARTNER,
THOMSON ASSOCIATES, KADUVATTOOR BUILDING,
T.C.11/665, NANTHENCOD, THIRUVANANTHAPURAM
RESIDING AT PAPPU BHAVAN, THYCAUD,
THIRUVANANTHAPURAM.**
- 5. MINI ELIZABATH NINAN,
T.C.11/661, KADAVATTOOR BUILDING,
NANTHENCOD, THIRUVANANTHAPURAM.**

BY ADV. SRI.C.K.KARUNAKARAN,SC,DHANALAKSHMI BAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE SPECIAL POWER OF ATTORNEY DATED 7.4.2001.

EXT.P2: COPY OF THE LETTER DATED 18.4.2001 FROM LIC HOUSING FINANCE LTD. TO THE PETITIONER.

EXT.P3: COPY OF THE SALE DEED NO.2573/1998 DATED 11.9.1998 OF THE SUB REGISTRY PATTOM.

EXT.P4: COPY OF THE PLAINT IN O.S.NO.34/2000 ON THE FILE OF THE SUB COURT, THIRUVANANTHAPURAM, DATED. 20.1.2000.

EXT.P5: COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONER IN O.S.NO.34/2000 ON THE FILE OF THE SUB COURT, THIRUVANANTHAPURAM, DATED.4.7.2001.

EXT.P6: COPY OF THE NOTICE PUBLISHED IN THE MATHRUBHUMI DAILY DATED 10.6.2004.

RESPONDENTS EXHIBITS:

EXT.R1(a): COPY OF THE TITLE DEED REGISTERED UNDER NO.5641 OF 1994 OF SRO PATTOM.

EXT.R1(b): COPY OF THE ACKNOWLEDGMENT DATED 21.11.95 MADE BY THE 5TH RESPONDENT.

TRUE COPY

P.A.TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) No. 25689 OF 2004

Dated this the 29th day of June, 2007

JUDGMENT

The issue involved is essentially between the petitioner and the Dhanalekshmi Bank. The Bank is already before me and accordingly the Writ Petition is taken up for hearing. The ground which is prominently raised in this Writ Petition is that the decree holder Bank, M/s.Dhanalekshmi Bank is not entitled to invoke the provisions of Act 51 of 1993 and simultaneously the provisions of the Securitisation Act also. The ground cannot be any longer survive in view of the pronouncement of the law through binding judicial precedents covering the matter. I notice that though this Court was initially inclined to grant stay against actual dispossession of the petitioner from the property, the above order was not extended after 01.10.04. In all probability the petitioner is already dispossessed. But the counsel for the petitioner submits that still there is a chance to settle the issue between the petitioner and Bank. Counsel for the Bank has no information about the settlement. I dispose the writ petition without granting the reliefs sought for. I make it clear that the above disposal will not stand in the way of the petitioner settling the issue with the other parties. Other statutory remedies available to the petitioner are not foreclosed by this judgment.

PIUS C. KURIAKOSE, JUDGE

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