

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN**

FRIDAY, THE 28TH DAY OF FEBRUARY 2014/9TH PHALGUNA, 1935

WA.No. 140 of 2014 () IN WP(C).30537/2008

**AGAINST THE ORDER/JUDGMENT IN WP(C) 30537/2008 of HIGH COURT OF KERALA
DATED 3/12/2012**

APPELLANT(S)/PETITIONER:

**PUSHPA AGED 36 YEARS
W/O.LATE JACOB BASIL, AZHIYAKATHU, KATTOOR P.O.
ALAPPUZHA.**

BY ADV. SRI.BABU CHERUKARA

RESPONDENT(S)/RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY THE REGISTRAR OF CO-OPERATIVE SOCIETIES
THIRUVANANTHAPURAM, PIN 695001.**
- 2. ALLEPPEY CARD BANK LTD. NO.A-94
ALAPPUZHA
REPRESENTED BY IT'S CHIEF EXECUTIVE OFFICER
PIN 688001.**
- 3. SPECIAL SALE OFFICER
CARD BANK LTD. NO.A-94, ALAPPUZHA, PIN 688 001.**
- 4. T.M.MATHEW, AGED 68 YEARS
S/O.LATE PHILIPOSE MATHAI
RESIDING AT THARAYIL HOUSE
KALAVOOR P.O./MANNAMCHERRI VILLAGE
ALAPPUZHA DISTRICT- PIN 688522.**

**R2 BY ADV. SRI.K.N.VENUGOPALA PANICKER
BY SR GOVERNMENT PLEADER SRI.K.K.SAIDALAVI
BY SRI.ASP.KURUP, SC FOR BANK**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 28-02-2014, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & ANIL K. NARENDHAN, JJ.

=====

C.M.Appl.No.76 of 2014

&

Writ Appeal No. 140 of 2014

=====

Dated this the 28th day of February, 2014

J U D G M E N T

Antony Dominic, J.

C.M.Appl.No.76/14 is an application filed to condone delay of 356 days in filing the appeal. The appeal is filed against the judgment dated 3/12/12 dismissing the writ petition filed by the appellant herein.

2. In the affidavit filed to explain the delay, the only reason stated is that the appellant/petitioner was not informed by her counsel about the judgment dismissing the writ petition and it was in such circumstances that the delay has occurred. Apart from the bald averment to the above effect, there is nothing for us to accept the said plea.

3. Even otherwise, the judgment under appeal shows that for liabilities incurred by the petitioner's deceased husband and his father, property belonging to her father-in-law was mortgaged as collateral security to the Bank. When default was committed, Bank initiated recovery proceedings and sold 10 cents out of the

C.M.Appl.No.76 of 2014
&
Writ Appeal No. 140 of 2014

: 2 :

mortgaged property. It was challenging the sale, the writ petition was filed, which was dismissed by the learned Single Judge holding that the father who owned the property did not challenge it and that the appellant/petitioner, who does not have any right in the mortgaged property, cannot challenge the same. We do not find any illegality in the view so taken by the learned Single Judge also.

Therefore, both on the unsatisfactory explanation offered to condone the delay and on merits, the delay petition and the appeal are liable to be dismissed. Therefore, C.M.Appl.No.76/14 is dismissed. Consequently, the appeal is also dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ANIL K. NARENDRAN
JUDGE**

Rp

//True Copy//

PA TO JUDGE