

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.28316 of 2016

PETITIONER:

STATE BANK OF INDIA, SME BRANCH, ANDOOR
BUILDING, GENERAL HOSPITAL ROAD, VANCHIYOOR PO.,
THIRUVANANTHAPURAMPIN-695035 REP. BY ITS CHIEF
MANAGER

BY ADV. SRI.S.EASWARAN

RESPONDENTS:

- 1 STATE OF KERALA REP. BY THE PRINCIPAL SECRETARY
TO FINANCE DEPARTMENT, THIRUVANANTHAPURAMPIN-695001
- 2 THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM-695001
- 3 THE TAHSILDAR, REVENUE RECOVERY OFFICE,
THIRUVANANTHAPURAM-695001
- 4 SRI. JOSEPHPERSON.A., PROPRIETOR M/S. HILOTON
MOTORS, SWARGADHANAM, TC.6/1447, PTP NAGAR,
THIRUVANANTHAPURAMPIN-695038
- 5 UNION OF INDIA, MINISTRY OF LAW AND JUSTICE,
NEW DELHI-110001 REP. BY THE SECRETARY

BY ADVS.SRI.B.RAMACHANDRAN, CGC
SRI.PHILIP J.VETTICKATTU
SRI.RANJITH THAMPAN, ADDL. ADVOCATE GENERAL
SRI.VINEETH KURIAKOSE
SRI.P.VIJAYAKUMAR, ASG

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30.07.2019
ALONG WITH WP(C).468/2018, WP(C).5899/2017, WP(C). 12849/2018,
WP(C).19639/2019, WP(C).27147/2018, WP(C). 28962/2017,
WP(C).31945/2017, WP(C).34002/2018, WP(C). 34380/2018,
WP(C).37543/2017, WP(C).37552/2017, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.468 of 2018

PETITIONER:

THE BANK OF INDIA REPRESENTED BY ITS MANAGER,
KANDASSANKADAVU BRANCH, THRISSUR DISTRICT,
PIN - 680 613.

BY ADVS. SHRI.JAWAHAR JOSE
SMT.CISSY MATHEWS
SRI.SARUN RAJAN

RESPONDENTS:

- 1 THE STATE OF KERALA REPRESENTED BY ITS SECRETARY,
TAXES, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695 001.
- 2 THE COMMERCIAL TAX OFFICER, COMMERCIAL TAXES
DEPARTMENT, IRINJALAKUDA P.O., THRISSUR DISTRICT,
PIN - 680 121.
- 3 THE TAHASILDAR, MUKUNDAPURAM, TALUK OFFICE,
IRINJALAKUDA P.O., THRISSUR DISTRICT,
PIN - 680 121.
- 4 MS. SURESHLASYA DIAMONDS AND JEWELS INDIA PRIVATE
LIMITED, LASYA TOWERS, NEAR PONJANAM TEMPLE,
PONJANAM, KATTOOR P.O., THRISSUR, PIN - 680 702,
REP.BY ITS MANAGING DIRECTOR SRI. SURESH M.K.
- 5 SURESH M.K., MULANGADAN HOUSE, PONJANAM, KATTOOR
P.O., THRISSUR, PIN - 680 702.

6 PUSHPA SURESH, MULANGADAN HOUSE, PONJANAM,
 KATTOOR P.O., THRISSUR, PIN - 680 702.

 BY ADDL. AG SRI.RANJITH THAMPAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30.07.2019 ALONG WITH WP(C).28316/2016, WP(C).5899/2017,
WP(C).12849/2018, WP(C).19639/2019, WP(C).27147/2018,
WP(C).28962/2017, WP(C).31945/2017, WP(C).34002/2018, WP(C).
34380/2018, WP(C).37543/2017, WP(C).37552/2017, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.5899 of 2017

PETITIONER:

REPCO HOME FINANCE LIMITED, NON-BANKING FINANCE
COMPANY HAVING ITS CORPORATE OFFICE AT CHENNAI
AND A BRANCH OFFICE AT JEEVAN JYOTHI BUILDING,
TRIVANDRUM ROAD, PUNALUR, KERALA REPRESENTED BY
ITS MANAGER

BY ADV. SRI.P.PAULCHAN ANTONY

RESPONDENTS:

- 1 THE TAHSILDAR, TALUK OFFICE, MINI CIVIL STATION,
KACHERY ROAD, PUNALUR, KOLLAM 691 305.
- 2 DEPARTMENT OF COMMERCIAL TAXES REPRESENTED BY
COMMISSIONER, COMMERCIAL TAXES, SECRETARIAT,
THIRUVANANTHAPURAM
- 3 COMMERCIAL TAX OFFICER, MINI CIVIL STATION,
KACHERY ROAD, PUNALUR, KOLLAM 691 305.
- 4 SRI.BABU K.K., MAYLATTUPARA HOUSE, AYIRANALLOOR
P.O., EDAMON, 34, PUNALURKERALA 691 307.

BY ADDL. AG SRI.RANJITH THAMPAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30.07.2019 ALONG WITH WP(C).468/2018, WP(C).28316/2016, WP(C).
12849/2018, WP(C).19639/2019, WP(C).27147/2018, WP(C).
28962/2017, WP(C).31945/2017, WP(C).34002/2018, WP(C).
34380/2018, WP(C).37543/2017, WP(C).37552/2017, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.12849 of 2018

PETITIONER:

M/S ASSET RECONSTRUCTION COMPANY (INDIA) LIMITED
'THE RUBY', 10TH FLOOR, 29 SENAPATI BAPAT MARG,
DADAR (WEST) MUMBAI-400028, REP. BY AUTHORISED
SIGNATORY RAMESH RAMAN.

BY ADVS. SRI.P.RADHAKRISHNAN (1)
SRI.MADHU RADHAKRISHNAN
SRI.M.D.JOSEPH
SRI.NELSON JOSEPH

RESPONDENTS:

- 1 THE ASST. COMMISSIONER (ASSMT) ,
OFFICE OF THE ASSISTANT COMMISSIONER,
SPECIAL CIRCLE, KOLLAM-691001.
- 2 THE TAHSILDAR, REVENUE RECOVERY,
KOLLAM-691008.
- 3 M/S M V R INDUSTRY PVT.LTD FORMERLY KNOWN AS
M V R EXPORTS PVT.LTD.NO.24, GST ROAD, GUINDY,
CHENAI-32, REPRESENTED BY ITS MANAGING DIRECTOR.

NAME OF R3 IS CORRECTED AS "M.V.R.INDUSTRY LTD."
AS PER ORDER DATED 12.4.20`18 IN IA 7307/2018

BY ADVS. SRI.B.ASHOK SHENOY
SRI.K.V.GEORGE
SRI.P.N.RAJAGOPALAN NAIR
SRI.P.S.GIREESH
SRI.RIYAL DEVASSY
BY ADDL. AG SRI.RANJITH THAMPAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30.07.2019 ALONG WITH WP(C).468/2018, WP(C).5899/2017, WP(C).28316/2016, WP(C).19639/2019, WP(C).27147/2018, WP(C).28962/2017, WP(C).31945/2017, WP(C).34002/2018, WP(C).34380/2018, WP(C).37543/2017, WP(C).37552/2017, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.19639 of 2019

PETITIONER:

THE FEDERAL BANK LIMITED, LCRD DIVISION,
MARINE DRIVE, ERNAKULAM - 682 031,
REPRESENTED BY ITS DEPUTY VICE PRESIDENT

BY ADVS. SRI.MOHAN JACOB GEORGE
SMT.NIGI GEORGE
SMT.P.V.PARVATHY (P-41)
SMT.REENA THOMAS
SRI.T.K.NAVAS

RESPONDENTS:

- 1 STATE OF KERALA REPRESENTED BY ITS SECRETARY,
REGISTRATION DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001
- 2 DISTRICT COLLECTOR, ERNAKULAM - 682 001
- 3 TAHSILDAR, KUNNATHUNADU TALUK - 682 016

BY ADDL. AG SRI.RANJITH THAMPAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30.07.2019 ALONG WITH WP(C).468/2018, WP(C).5899/2017, WP(C).
12849/2018, WP(C).28316/2016, WP(C).27147/2018, WP(C).
28962/2017, WP(C).31945/2017, WP(C).34002/2018, WP(C).
34380/2018, WP(C).37543/2017, WP(C).37552/2017, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.27147 of 2018

PETITIONER:

PHOENIX ARC PRIVATE LIMITED, ACTING IN ITS
CAPACITY AS TRUSTEE OF PHOENIX TRUST FY-17-11,
HAVING ITS REGISTERED OFFICE AT 5TH FLOOR, DANI
CORPORATE PARK, 158, CST ROAD, KALINA, SANTA
CRUZ (E) MUMBAI-400 098, MAHARASHTRA, REPRESENTED
BY ITS AUTHORISED OFFICER

BY ADVS.SMT.ANJU MOHAN
SMT.M.G.SUSSILA
SRI.B.SATHEEZ CHANDRAN
SRI.MANSOOR.B.H.
SRI.P.GOPINATH MENON

RESPONDENTS:

- 1 STATE OF KERALA REPRESENTED BY ITS CHIEF
SECRETARY, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM-695 001
- 2 REVENUE DEPARTMENT GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001,
REPRESENTED BY ITS ADDITIONAL CHIEF SECRETARY
REVENUE.

- 3 DISTRICT COLLECTOR, ERNAKULAM, FIRST FLOOR, CIVIL STATION, KAKKANAD, ERNAKULAM-682 030.
- 4 SPL. TAHSILDAR (R R), (REVENUE RECOVERY), KANAYANNUR, ERNAKULAM, PIN-682 030.
- 5 UNION OF INDIA REPRESENTED BY ITS SECRETARY, MINISTRY FINANCE ROOM NO.46, NORTH BLOCK, NEW DELHI-110 001.
- ADDL. R6 STATE BANK OF INDIA REP. BY THE GENERAL MANAGER, SME BRANCH, FIRST FLOOR, JOY'S BUILDING, M.G.ROAD, ERNAKULAM-682 011
- IMPLEADED AS PER ORDER DATED 30.07.2019 IN IA 1/2019
- ADDL. R7 ERNAKULAM TOURIST BUNGALOW, UNIT: BEAUMONDE, THE FERN A PARTNERSHIP FIRM, REP BY DR.C.K.DEVADAS - MANAGING PARTNER, VIVEKANDA LANE, NEAR SOUTH RAILWAY STATION, ERNAKULAM, KOCHI - 682 016.
- ADDL. R8 DR.C.K.DEVADAS, S/O SHRI.C.K.KUNJAN, MANAGING PARTNER, ERNAKULAM TOURIST BUNGALOW, UNIT: BEAUMONDE THE FERN, 41/3325, OLD RAILWAY STATION ROAD, ERNAKULAM, KOCHI - 682 018.
- ADDL. R9 MR.DEEPAK SATHYAPALAN, S/O DR.P.A.SATHYAPALAN, PARTNER, ERNAKULAM TOURIST BUNGALOW, UNIT: BEAUMONDE THE FERN, 64/2047 (OLD NO.42/1711), MARKET ROAD, ERNAKULAM, KOCHI - 682 018.
- ADDL. R10 MRS.OMANA GOPALAN, W/O DR.M.A.GOPALAN, PARTNER, ERNAKULAM TOURIST BUNGALOW, UNIT: BEAUMONDE THE FERN, 'SREE RAMA VILASAM', DOOR NO.67/2750, OLD RAILWAY STATION ROAD, ERNAKULAM, KOCHI - 682 018.
- ADDL. R11 MRS.BHUVANESWARI SATHYAPALAN, W/O DR.P.A.SATHYAPALAN, PARTNER, ERNAKULAM TOURIST BUNGALOW, UNIT: BEAUMONDE THE FERN, 64/2047 (OLD NO.42/1711), MARKET ROAD, ERNAKULAM, KOCHI - 682 018.

- ADDL. R12 MRS.RADHA DEVADAS, W/O DR.C.K.DEVADAS, PARTNER,
ERNAKULAM TOURIST BUNGALOW, UNIT: BEAUMONDE
THE FERN, 41/3325, OLD RAILWAY STATION ROAD,
ERNAKULAM, KOCHI - 682 018.
- ADDL. R13 MR.D.SHYAM, S/O DR.C.K.DEVADAS, PARTNER,
ERNAKULAM TOURIST BUNGALOW, UNIT:
BEAUMONDE THE FERN, 41/3325, OLD RAILWAY
STATION ROAD, ERNAKULAM, KOCHI - 682 018.
- ADDL. R14 MRS.RINU GOPALAN, D/O DR.M.A.GOPALAN,
PARTNER, ERNAKULAM TOURIST BUNGALOW, UNIT:
BEAUMONDE THE FERN, 'SREE RAMA VILASAM', DOOR
NO.67/2750, OLD RAILWAY STATION ROAD, ERNAKULAM,
KOCHI - 682 018.
- ADDL. R15 DR.M.A.GOPALAN, S/O MR.ACHUTHAN, SREE RAMA VILASAM,
OLD RAILWAY STATION ROAD, ERNAKULAM, KOCHI-682018
- ADDL. R16 DR.P.A.SATHYO, 42/1722, MARKET ROAD,
ERNAKULAM, KOCHI - 682 018.
- IMPLEADED AS PER ORDER DATED 30.07.2018
IN IA 2/2019
- ADDL. R17 STATE BANK OF INDIA, COMMERCIAL BRANCH, 1ST FLOOR,
EJ CHANMBERS, RAVIPURAM, ERNAKULAM REP. BY
BRANCH MANAGER.
- ADDL. R18 BRANCH MANAGER, STATE BANK OF INDIA, COMMERCIAL
BRANCH, 1ST FLOOR, EJ CHAMBERS, RAVIPURAM,
ERNAKULAM.
- IMPLEADED AS PER ORDER DATED 30.07.2019
IN IA 4/2019
- ADDL. R19 SALES TAX OFFICER, 3RD CIRCLE, ERNAKULAM.
- ADDL. R20 STATE TAX OFFICER (LT), ERNAKULAM
- ADDL. R21 DEPUTY COMMISSIONER OF STATE TAX (LAW),
ERNAKULAM.

IMPLEADED AS PER ORDER DATED 30.07.2019
IN IA 6/2019

BY ADDL. AG SRI.RANJITH THAMPAN
BY SRI.P.VIJAYAKUMAR, ASG OF INDIA

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30.07.2019 ALONG WITH WP(C).468/2018, WP(C).5899/2017, WP(C).
12849/2018, WP(C).19639/2019, WP(C).28316/2016, WP(C).
28962/2017, WP(C).31945/2017, WP(C).34002/2018, WP(C).
34380/2018, WP(C).37543/2017, WP(C).37552/2017, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.28962 of 2017

PETITIONER:

KAFEEL REYNOLD, ASINARA, NO.1, MRA,
MUNDAKKAL, SN. COLLEGE JUNCTION, KOLLAM 691001

BY ADV. SRI.T.R.HARIKUMAR

RESPONDENTS:

- 1 STATE BANK OF INDIA, SME BRANCH, 1ST FLOOR,
STATE BANK BUILDINGS, NEW RAILWAY STATION,
KOLLAM 691001, REP. RESENTED BY ITS ASSISTANT
GENERAL MANAGER
- 2 STATE BANK OF INDIA, STRESSED ASSETS MANAGEMENT
BRANCH, ERNAKULAM, 7TH FLOOR, VANAKARATH TOWERS,
PALARIVATTOM BYE PASS JUNCTION, ERNAKULAM 682024,
REPRESENTED BY ITS ASSISTANT GENERAL MANAGER
- 3 THE AUTHORIZED OFFICER, STATE BANK OF INIDA,
STRESSED ASSETS MANAGEMENT BRANCH, ERNAKULAM, 7TH
FLOOR, VANAKARATH TOWERS, PALARIVATTOM BYE PASS
JUNCTION, ERNAKULAM 682024.

- 4 THE ASSISTANT COMMISSIONER (ASSESSMENT)
COMMERCIAL TAX OFFICE, SPECIAL CIRCLE,
COMMERCIAL TAXES COMPLEX, ASRAMAM, KOLLAM 691001
- 5 THE DISTRICT COLLECTOR, COLLECTORATE,
KOLLAM 691013
- 6 THE TAHSILDAR (REVENUE RECOVERY), TALUK OFFICE,
KOLLAM 691013
- 7 THE TAHSILDAR (LAND RECORDS), TALUK OFFICE,
KOLLAM 691013
- 8 DELSAMMA.T., W/O.KEVIN NITESH STEPHEN, GRACE,
RAMANATTUKARA, KOZHIKODE DISTRICT 673633,
(PRESENTLY RESIDING AT MRA 55 A, MUNDAKKAL,
KOLLAM 691001)
- 9 KEVEN NITESH STEPHEN, GRACE, RAMANATTUKARA,
KOZHIKODE DISTRICT 673633, (PRESENTLY RESIDING
AT MRA 55 A, MUNDAKKAL, KOLLAM 691001)

BY ADDL. AG SRI.RANJITH THAMPAN
BY ADVS. SRI.GEORGE THOMAS (MEVADA)
(SR.)SRI.S.SREEKUMAR (KOLLAM)
SRI.AMAL GEORGE, SC, SBI
SRI.GEORGE THOMAS (MEVADA) (SR.)
SRI.S.SREEKUMAR (KOLLAM)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
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12849/2018, WP(C).19639/2019, WP(C).27147/2018, WP(C).
28316/2016, WP(C).31945/2017, WP(C).34002/2018, WP(C).
34380/2018, WP(C).37543/2017, WP(C).37552/2017, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.31945 of 2017

PETITIONER:

SMT.DELSAMMA T.,AGED 52 YEARS, W/O.STEPHEN C.,
RESIDING AT 'GRACE', PARIHARAPURAM
P.O.,RAMANATTUKARA, KOZHIKODE-673633.

BY ADVS.SRI.R.RAJESH (PULLIKADA)
SRI.K.VIJAYAN (V 726)

RESPONDENTS:

- 1 TAHASILDAR (RR), TALUK OFFICE, KOLLAM-691001.
- 2 VILLAGE OFFICER, MUNDAKKAL VILLAGE KOLLAM-691001.
- 3 THE SUB-REGISTRAR-OFFICE, ERAVIPURAM,KOLLAM-691011.
- 4 AUTHORISED OFFICER STATE BANK OF INDIA
PALARIVATTAM, ERNAKULAM-682025.
- 5 MR. KAFEEL REYNOLD, S/O.REYNOLD FERNANDEZ,
RESIDING AT ASINARA, M.R.A.-1, UDAYAMARTHANDAPURAM
CHERRY, MUNDAKKAL VILLAGE, KOLLAM DISTRICT-691001.

BY ADDL. AG SRI.RANJITH THAMPAN
SRI.T.R.HARIKUMAR
SRI.M.JITHESH MENON

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12849/2018, WP(C).19639/2019, WP(C).27147/2018, WP(C).
28962/2017, WP(C).28316/2016, WP(C).34002/2018, WP(C).
34380/2018, WP(C).37543/2017, WP(C).37552/2017, THE COURT ON THE
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PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.34002 of 2018

PETITIONERS:

- 1 NIZAMUDEEN S., 449, NOORA MANZIL, PANAYAM,
PERINAD P.O., KOLLAM- 691 601.
- 2 SUHAIL.S., 449, NOORA MANZIL, PANAYAM,
PERINAD P.O., KOLLAM 691601
- 3 ABDUL REHMAN.S., 449, NOORA MANZIL, PANAYAM,
PERINAD P.O., KOLLAM 691601

BY ADV. SRI.L.RAJESH NARAYAN

RESPONDENTS:

- 1 STATE BANK OF INDIA, STRESSED ASSET MANAGEMENT
BRANCH, 32/1747 K1, 7TH FLOOR, VENKARATH TOWERS,
PALARIVATTOM BYPASS JUNCTION, ERNAKULAM,
KOCHI-682024.
- 2 THE TAHSILDAR (RR), TALUK OFFICE, KOLLAM 691001
- 3 THE SUB REGISTRAR, SUB REGISTRY OFFICE,
KUNDARA, KOLLAM 691501
- 4 THE VILLAGE OFFICER, VILLAGE OFFICER, PANAYAM,
KOLLAM

- 5 SIRAJUDDEEN, S/O. IBRAHIMKUTTY, PROPRIETOR,
M/S. A.R. CASHEWS, RESIDING AT VILAYILVEEDU,
2ND MILE STONE, KILIKOLLOOR P.O., KOLLAM 691104
- 6 BINU JOHN, S/O. M.C. YOHANNAN, RESIDING AT
VADAKKATHIL JOHNS BHASVAN, KARIPPARAM,
MUKKODU P.O., KUNDARA, KOLLAM 691501
- 7 SHAFI MUSALIAR, S/O. SAINULABDEEN MUSALIAR,
RESIDING AT SHAFI MANZIL, KILIKOLLOOR VILLAGE,
KARICODU, RANDAMKUTTY T.K.M., COLLEGE PO.,
KOLLAM 691104
- 8 K.ROY, S/O. LATE K. KUNJUKUNJU, RESIDING AT
PLAVILA PUTHEVEEDU, NALLILAI P.O., NEDUMPARA
KOLLAM 691515

BY ADVS. SRI.E.D.GEORGE
SRI.M.S.UNNIKRISHNAN
KUM.LINU G. NATH
SRI.CHRISTINE MATHEW
SRI.S.EASWARAN
BY ADDL. AG SRI.RANJITH THAMPAN

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12849/2018, WP(C).19639/2019, WP(C).27147/2018, WP(C).
28962/2017, WP(C).31945/2017, WP(C).28316/2016, WP(C).
34380/2018, WP(C).37543/2017, WP(C).37552/2017, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.34380 of 2018

PETITIONER:

STATE BANK OF INDIA, STRESSED ASSETS RECOVERY
BRANCH, LMS COMPOUND, OPP. MUSEUM WEST GATE,
THIRUVANANTHAPURAM-695033,
REPRESENTED BY ITS CHIEF MANAGER.

BY ADV. SRI.S.EASWARAN

RESPONDENTS:

- 1 G. VASANTHA GOPALAKRISHNAN, PROPRIETOR,
M/S SANTHOSH INDUSTRIES, RESIDING AT SANTHOSH
NIVAS, M.G STREET, THAMARAKULAM, KOLLAM- 691 001.
- 2 THE TAHSILDAR (RR), TALUK OFFICE, KOLLAM - 691002.
- 3 THE VILLAGE OFFICER, VILLAGE OFFICE,
KOLLAM EAST VILLAGE,
KOLLAM - 691002.
- 4 THE SUB REGISTRAR, SUB REGISTRAR OFFICE,
KOLLAM - 691002.

BY ADDL. AG SRI.RANJITH THAMPAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30.07.2019 ALONG WITH WP(C).468/2018, WP(C).5899/2017, WP(C).
12849/2018, WP(C).19639/2019, WP(C).27147/2018, WP(C).
28962/2017, WP(C).31945/2017, WP(C).34002/2018, WP(C).
28316/2016, WP(C).37543/2017, WP(C).37552/2017, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.37543 of 2017

PETITIONER:

ANZAR BABU, SHAMEEMA MANZIL, KALLUMTHAZHAM P.O.,
KOLLAM-691004.

BY ADVS. SRI.N.D.PREMACHANDRAN
SRI.D.AJITHKUMAR

RESPONDENTS:

- 1 STATE BANK OF INDIA STRESSED ASSETS MANAGEMENT
BRANCH, VANKARATH TOWERS, BYPASS JUNCTION,
PALARIVATTOM, KOCHI-682024, REPRESENTED BY ITS
CHIEF MANAGER.
- 2 ST.ANTONYS CARS P LTD. MEHER BUILDINGS,
S.N.COLLEGE JUNCTION, KOLLAM-691001.
- 3 THE SUB REGISTRAR SUB REGISTRY OFFICE
KILIKOLLOOR, KOLLAM-691004.
- 4 THE TAHSILDAR (RR), KOLLAM.

BY SRI.S.EASWARAN
BY ADDL. AG SRI.RANJITH THAMPAN
SRI.T.R.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30.07.2019 ALONG WITH WP(C).468/2018, WP(C).5899/2017, WP(C).
12849/2018, WP(C).19639/2019, WP(C).27147/2018, WP(C).
28962/2017, WP(C).31945/2017, WP(C).34002/2018, WP(C).
34380/2018, WP(C).28316/2016, WP(C).37552/2017, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.37552 of 2017

PETITIONER:

STATE BANK OF INDIA STRESSED ASSETS MANAGEMENT
BRANCH, VANKARATH TOWERS, BYPASS JUNCTION,
PALARIVATTOM, KOCHI-682024, REPRESENTED BY ITS
CHIEF MANAGER.

BY ADV. SRI.S.EASWARAN

RESPONDENTS:

- 1 ST.ANTONYS CARS [P] LTD., MEHER BUILDINGS,S. N.
COLLEGE JUNCTION, KOLLAM-691001.
- 2 THE SUB REGISTRAR, SUB REGISTRY OFFICE,
KILIKOLLOOR, KOLLAM-691001.
- 3 THE TAHSILDAR (RR), KOLLAM-691001.

BY ADV. SRI.T.R.HARIKUMAR
BY ADDL. AG SRI.RANJITH THAMPAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30.07.2019 ALONG WITH WP(C).468/2018, WP(C).5899/2017, WP(C).
12849/2018, WP(C).19639/2019, WP(C).27147/2018, WP(C).
28962/2017, WP(C).31945/2017, WP(C).34002/2018, WP(C).
34380/2018, WP(C).37543/2017, WP(C).28316/2016, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

**WP (C) NOS. 28316/2016, 468/2018, 5899/2017, 12849/2018,
19639/2019, 27147/2018, 28962/2017, 31945/2017,
34002/2018, 34380/2018, 37543/2017 & 37552/2017**

JUDGMENT

These writ petitions, save five, have been filed by various Banks and Financial Institutions challenging the action of the State's Revenue Machinery ('the Revenue'), in taking possession of and attempting to sell certain properties for alleged arrears of Sales Tax and Value Added Tax from its respective owners, which are claimed by them to be their secured assets, consequent to equitable mortgages having been created over them in their favour towards security for financial facilities/assistance availed of by its owners.

2. Four among the afore writ petitions, namely W.P.(C) Nos. 31945/2017, 37543/2017, 37552/2017 and 34002/2018 have been filed by the auction purchasers of secured assets sold by the Banks/ Financial Institutions and they seek that the sale certificates in their favour be directed to be registered by the Revenue authorities, who appear to be refusing to do so citing arrears of sales tax left due by the original owners; with consequential directions to effect the transfer of registry of the properties in their favour.

3. Finally, W.P.(C)No.28962/2017 has been filed by the owner of a property challenging the action of the respondent-Bank against it for recovery of debts from him asserting that the Revenue has First Charge over it.

4. While the petitioner-Banks/Financial Institutions claim that they have the primary right, as secured creditors, to proceed against the properties in question under Section 26E of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act ('the SARFAESI Act' for brevity) and Section 31B of the Recovery of Debts and Bankruptcy Act ('the RDB Act' for brevity), the Revenue claims 'First Charge' over them under the provisions of Section 26B of the Kerala General Sales Tax (KGST) Act and Section 38 of the Kerala Value Added Tax (KVAT) Act.

5. It is this conflict of claims and interests which are at the core of these writ petitions and which call for resolution from this Court.

6. Obviously, therefore, before I can move ahead, an examination of these four provisions become imperative, for which purpose, they are drawn out and reproduced as under:

(a) Section 26E of the SARFAESI Act:

“Priority to secured creditors - Notwithstanding anything contained in any other law for the time being in force, after the registration of security interest, the debts due to any secured creditor shall be paid in priority over all other debts and all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority.

Explanation : For the purposes of this section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code.”

(b) Section 31B of the RDB Act:

“Priority to secured creditors.- Notwithstanding anything contained in any other law for the time being in force, the rights of secured creditors to realise secured debts due and payable to them by sale of assets over which security interest is created, shall have priority and shall be paid in priority over all other debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or loan authority.

*Explanation.-*For the purpose of this section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), in cases where insolvency or bankruptcy proceedings are pending in respect of secured asserts of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code.”

(c) Section 26B of the KGST Act:

“Tax payable to be first charge on the property:-Notwithstanding anything to the contrary contained in any other law for the time being in force, any amount of tax, penalty, interest and any other amount, if any, payable by a dealer or any other person under this Act, shall be the first charge on the property of the dealer, or such person.”

(d) Section 38 of the KVAT Act:

“Tax payable to be first charge on the property.-Notwithstanding anything to the contrary contained in any other law for the time being in force, any amount of tax, penalty, interest and any other amount, if any, payable by a dealer or any other person under this Act, shall be the first charge on the property of the dealer, or such person.”

7. As is conspicuous from the afore sections, the SARFAESI Act and the RDB Act indubitably declare that the debt of a secured creditor shall be paid in priority over all other debts, including 'revenues, taxes, cesses and other rates payable to the Central Government or State Government or Local Authority' and the RDB Act, in addition, elevates this right of the Bank/financial Institution to be in priority over all others, while the KGST Act and the KVAT Act avow that the arrears of tax, penalty, interest or any other amounts under it shall be a 'First Charge' over the properties of the defaulter.

8. The Revenue thus assert that since they have the 'First Charge' over the properties in question, they are legally entitled to take its possession and sell it to recover the arrears of tax, invoking the procedural mechanism under the Kerala Revenue Recovery Act (RR Act), which is opposed with equal vehemence by the petitioner-Banks/Financial Institutions on the strength of the afore acclamation of the rights in their favour by the SARFAESI Act and the RDB Act

that the secured debts shall be paid off in priority over taxes, etc.

9. Thus, the worth and caliber of the afore seemingly antipodal claims can obtain a proper measure only if one examines and concludes on the difference, if any, between the phraseology employed in the afore two provisions, but constantly keeping in mind that the provisions of the SARFAESI Act and the RDB Act have been brought in later to the KGST Act and the KVAT Act, and resultantly, if the rights granted under both these Statutes are at par, then the former will prevail under Articles 246(1) and 254 of the Constitution of India. In other words, unless it is demonstrated that the KGST Act and the KVAT Act offer an overriding protection to the Revenue over the rights of the Banks under the SARFAESI Act and the RDB Act, then the former will have to yield to the latter.

10. I have heard the learned counsel for the petitioners, the learned counsel for the party respondents, the learned Standing Counsel for the respondent Banks/Financial Institutions and the learned Additional Advocate General for the official respondents.

11. Sri.Ranjith Thampan, learned Additional Advocate General, was allowed to open submissions because it is for him to defend the actions of the Revenue, which are under challenge herein

and to establish that they have a better right over the properties under the mandate of the KGST Act and the KVAT Act.

12. Sri.Renjith Thampan began by arguing that there is an unmistakable difference in the concept of 'First Charge' over a property *vis-a-vis* the 'priority of debts' charged on it. According to him, a 'First Charge' over a property is a right thereon, which can be extinguished only by a process of law or upon the Revenue bringing it to sale and in no other manner. His specific predication is that even if there are other debts charged on the property, which concededly may have to be paid in priority as per the SARFAESI Act or the RDB Act, the Revenue must still sell it first for the 'charge' to be extinguished and that its sale through any other mechanism, be that the SARFAESI Act or the RDB Act or even by a Civil Court under the Code of Civil Procedure, will cause its 'charge' over it to subsist in spite of such sale. He, however, in the same breath, concedes that since Section 26E of the SARFAESI Act and Section 31B of the RDB Act mandate that the secured debts must be paid in priority even over the taxes of the Central Government and the State Government, the proceeds of the sale thus conducted by the Revenue will have to be first adjusted towards the secured debt and that Revenue will be entitled only to the

balance, if any.

13. In effect, the learned Additional Advocate General argues for the proposition that if the 'First Charge' in favour of the Revenue is to be extinguished, even though they would not be entitled to priority in appropriation of the sale proceeds - it admittedly having to be paid against the secured debt, the properties in question will have to be sold by them and therefore, that the impugned action of the Revenue in having taken steps to sell the properties in question is irreproachable and forensically valid.

14. In support of his afore contentions, Sri.Ranjith Thampan cites **Azheekkal Sree Varaha Devaswom and another v. Ummer Sait Abdulla Sait and other** (AIR 1951 TC 17), **Kunjikavu Amma v. Janaki Amma** (1957 KLT 392), **Union of India v. Somasundaram Mills (P) Ltd. and Another** ((1985) 2 SCC 40), **State Bank of Bikaner & Jaipur v. National Iron & Steel Rolling Corporation and Ors.** ((1995) 2 SCC 19), **Sherry Jacob v. Canara Bank** (2004 (3) KLT 1089) and **M/s.Sundaram Finance Ltd. v. Tahsildar** (2009 KHC 4373).

15. Continuing with the above line of submissions, the learned Additional Advocate General, relying on the provisions of Section

26C(2) of the SARFAESI Act, further contended that since Section 26C thereof does not mention anything about Government dues, including tax recoverable, but only deals with the rights of a secured creditor or a person holding attachment, which rights are to be registered with the Central Registry as per the provisions of Chapter IVA of the said Act, the statutory First Charge attached to the property is not 'touched' when the property is sold under the said Act. He contends that this is particularly so, since the sale of a secured asset by a Bank/ Financial Institution under the SARFAESI Act is in *pari materia* with its sale by its original owner as per Section 13 of the said Act. The Additional Advocate General thus argues that because Section 26E of the SARFAESI Act does not 'mention' the extinguishment of the First Charge of the Revenue over the property and does not prohibit its sale through other methods, no inhibition can be construed against its sale by the Revenue for recovering arrears of tax, but then expressly admits, without reservation, that out of the sale amount, the secured creditors' due will have to be paid in priority.

16. In further force of his afore submissions, the learned Additional Advocate General contends that, as per the SARFAESI Act

and the RDB Act, the sale of a property under its provisions can only 'have the trappings of a court sale in execution of a Civil Court money decree' (*sic*). He then submits that, as is evident from Rule 8(6)(a) and Rules 9(7)(2) to 9(7)(10) of the Security Interest Enforcement Rules, 2002 ('the Enforcement Rules' for brevity), the proclamation of sale under the SARFAESI Act has to necessarily show the prior encumbrances over it and consequently that the sale can be completed only subject to such. He says that, contrary to this, the sale under the RR Act extinguishes all such encumbrances as is provided under Section 60 thereof and reiterates that even if the properties are sold by the Banks/Financial Institutions under the SARFAESI Act or RDB Act, the charge of the Revenue over it continues until the sale is conducted under the RR Act.

17. The learned Additional Advocate General concluded his submissions by relying on **Central Bank of India v. State of Kerala and Others** ((2009) 4 SCC 94) and **Employees Provident Fund Commissioner v. Official Liquidator of Esskay Pharmaceuticals Limited** ((2011) 10 SCC 727) and contended that the former judgment clearly declares that the Banks/Financial Institutions cannot claim a First Charge over the properties under the SARFAESI Act or

RDB Act and that the latter judgment takes it beyond doubt that even if priority for recovery is granted, it will not override the Revenue's statutory First Charge. He then added that even if the argument to the contrary is accepted, the provisions of RR Act are not ousted on account of Section 37 of the SARFAESI Act, which expressly says that application of other laws is not barred.

18. In *contrario sensu*, Sri.S.Easwaran, learned counsel appearing for the petitioner-Banks in W.P.(C)Nos.28316/2016, 37552/2017 and 34380/2018, asserted that the submissions made on behalf of the Revenue by the learned Additional Advocate General cannot garner legal support since a series of judgments of the Hon'ble Supreme Court and this Court have now taken it beyond the pale of any dispute that there is little difference in the effect of the phraseology employed in the afore-extracted provisions of the SARFAESI Act and the RDB Act on one hand and the KGST Act and the KVAT Act on the other. He submits, relying on **H.H.Maharajadhiraja Madhav Rao Jivaji Rao Scindia Bahadur of Gwalior and Others v. Union of India and Another** ((1971) 1 SCC 85), **Govind Chandra Pal v. Dwaraka Nath Pal** (ILR Calcutta 837) and **Raja Sri.Shiva Prasad v. Beni Madhav** (ILR (1) Patna 387)

that a 'First Charge' over a property under the KGST Act and KVAT Act only gives the Revenue the right to sell it first in order to recover their dues and nothing more and therefore, that once Section 26E of the SARFAESI Act and Section 31B of the RDB Act made the secured debt to be payable in priority over all other debts, including all revenue, taxes, cesses and other rates payable to the Central Government or State Government or Local Authority and upraised the right to recover it also to be in priority of any other debt/liability, it effectively parses the 'First Charge' rights of the Revenue inoperative and ineffectual.

19. Sri.S.Easwaran further submitted that once the afore Sections in the SARFAESI Act and RDB Act were brought into effect, the earlier prescriptions in the KGST Act and KVAT Act, which are in conflict with them, are rendered *non-est* on account of Article 254 of the Constitution of India or, in any event, subservient to the former under the mandate of Article 246(1) of the Constitution. He relies on the judgments of the Hon'ble Supreme Court in **State Bank of India v. Santosh Gupta and Another** ((2017) 2 SCC 538) and in **Government of AP and Another v. J.B. Educational Society and another** ((2005) 3 SCC 212) in support of these submissions and adds

that even assuming that the contention of the learned Additional Advocate General that Section 26E of the SARFAESI Act has not been notified is accepted, it would make no difference because, on the mere factum of the said provision being made by the Parliament, without it having to be notified, the principle of 'primacy of laws made by the Parliament' would fully apply, going by the judgment of the Hon'ble Supreme Court in **State of Kerala v. Mar Appraem Kuri Company Limited and Another** ((2012) 7 SCC 106).

20. Sri.S.Easwaran then proceeds to answer the submission of the learned Additional Advocate General that the 'First Charge' of the State over the property is not extinguished even if it is sold by the Bank/Financial Institution under the provisions of the SARFAESI Act or RDB Act by citing the judgments of the Hon'ble Supreme Court in **Textile Labour Association and another v. Official Liquidator and Another** ((2004) 9 SCC 741), **Maharashtra State Cooperative Bank Limited v. Assistant Provident Fund Commissioner and Others** ((2009) 10 SCC 123), **Official Liquidator of Esskay Pharmaceuticals Limited** (supra) and **Jitendra Nath Singh v. Official Liquidator and Others** ((2013) 1 SCC 462), contending that in the afore judgments the Hon'ble Court has considered the concept

of 'First Charge' *vis-a-vis* 'priority of payment', in the context of Sections 529 and 529A of the Companies Act, 1956 in comparison with various other Statutes which had provided for other First Charges and has affirmatively settled the law that the words 'priority of payment' in the Companies Act mean that such payments will be liable to be made even before the 'First Charge' claimed under other Statutes are honoured and asserts that the same principle should apply while interpreting Section 26E of the SARFAESI Act and Section 31B of the RDB Act, especially in the context of the facts involved in these cases.

21. Sri.Mohan Jacob George, learned counsel appearing for the petitioners in W.P.(C)No.19639/2019, also made submissions similar to those recorded above, but emphasised on the principle of 'primacy to the Central Legislation' under Article 246(1) of the Constitution of India. He argues that since the SARFAESI Act and the RDB Act have been legislated by the Parliament under the powers vested with it through Entry 45 of List II, while the State Legislations were made under the relevant entry in List II of the Constitution of India, in the event of any conflict between them, the former will prevail. He cites for support the proposition the judgment of the

Hon'ble Supreme Court in **Uco Bank and Another v. Dipak Deebbarma and Others** ((2017) 2 SCC 585) and contended that even in the case of 'incidental encroachment' the Legislation enacted by the dominant power will prevail and therefore, that the dominant legislation will override the other. He then made very extensive arguments on the concepts of pith and substance and the legislative competence of the Parliament and State Legislatures and insisted that the moment the Parliament steps in by enacting a law traceable to Entry 45 of List I of the Constitution of India, the State law, to the extent to which it is inconsistent with it, must give way. He says that, as has been indubitably declared by the Hon'ble Supreme Court in **Santosh Gupta** (supra), the dominant legislation being the parliamentary legislation, the State Legislations would be subservient to it and therefore, that the Banks/Financial Institutions will obtain the right to first proceed against the properties involved and only thereafter can the State, if there is any surplus, claim the same towards their dues.

22. Sri.Mohan Jacob George then treaded on the contours of 'First Charge' and 'priority of payment', relying on **National Iron & Steel Rolling Corporation** (supra) and **State of M.P. and Another**

v. State Bank of Indore and Others ((2002) 10 SCC 441) and asserted that, going by the ratio of these judgments, on account of the provisions of Section 26E of the SARFAESI Act and Section 31B of the RDB Act, the right of the Banks/Financial Institutions to proceed against the properties involved is absolutely protected in priority to all other debtors or claimants, including the Revenue. He concluded by showing me from the Black's Law dictionary (Centennial Edition) and the Law Lexicon by Sri.P.Ramanatha Aiyar (Reprint Edition 1987) that the word 'priority' has been defined as 'precedence and/or a legal preference in competing claims' and that as per these definitions, when two persons have similar rights in respect of the same subject matter, one being entitled to exercise his rights to the exclusion of the other, he is said to have 'priority' and that the Banks/Financial Institutions ineluctably obtain this 'priority' through the aforementioned provisions of the SARFAESI Act and the RDB Act.

23. He concludes by asserting that the Revenue cannot proceed against the properties in question any further taking support from Section 37 of the SARFAESI Act, since it does not take in the RR Act, as has been already declared by the Hon'ble Supreme Court in **Madras Petrochem Limited and another v. Board for Industrial**

and Financial Reconstruction and Others ((2016) 4 SCC 1).

24. Sri.Madhu Radhakrishnan, learned counsel appearing for the petitioner in W.P.(C)No.12849/2018, after endorsing all the submissions made as afore by Sri.S.Easwaran and Sri.Mohan Jacob George, submitted that various High Courts in India have concluded affirmatively in favour of the proposition that Section 26E of the SARFAESI Act and Section 31B of the RDB Act offer the secured creditor the first right to recover their dues, notwithstanding any other right offered by any other Statute, to the contrary. He shows me that a Full Bench of the Madras High Court in **Assistant Commissioner (CT), Anna Salai-III Assessment Circle v. The Indian Overseas Bank and Ors.** ((2017) 202 Comp Cas 226) has held that the rights of a secured creditor to realise the secured debts, due and payable by sale of assets over which security interest is created, would have priority over all debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or Local Authority. He says that identical views have been taken by the Bombay High Court in **Axis Bank Limited v. State of Maharashtra and Ors.** ((2017) 202 Comp Cas 228), which has concluded that '*there is statutory recognition of*

priority claim of the secured creditor in view of the amendment brought into effect by virtue of Act No.44 of 2016 thereby introducing section 26E providing for priority to secured creditor over all other debts and all taxes, cess and other rates payable to Central Government or the State Government or the Local Authority'. He finishes by asserting that the rights of a secured creditor having been thus statutorily protected, the Revenue cannot proceed against the properties, notwithstanding the 'First Charge' that they claim, since any such charge can only be subservient to Section 26E of the SARFAESI Act and Section 31B of the RDB Act.

25. Sri.P.Gopinath Menon, learned Senior Counsel, assisted by Sri.B.H.Mansoor, learned counsel appearing for the petitioner in W.P. (C)No.27147/2018 and the various learned counsel appearing for the Banks/financial Institutions in other cases have also made arguments on the same lines as afore, touching on the nuances of the principles recorded above and suffice to say, their common contention is that the rights of their clients to proceed against the properties involved in these cases are protected against such attempt by the Revenue. He further submits that like in many of the above cases, the Revenue has already taken possession of the properties, which his client claims to

be the secured assets and therefore, that they are unable to conduct the sale. He adds that, in fact, in this particular case, this Court had passed two interim orders on 14.11.2018 and 12.02.2019 allowing joint sale of the property by the petitioner-Financial Institution and the Revenue but that it did not fructify since the upset price fixed, reckoning both the liabilities, did not attract the bidders. He thus prays that his client be allowed to sell the property and that the Revenue be directed to return possession of the same forthwith so as to enable them to do so.

26. As far as W.P.(C)Nos.31945/2017, 37543/2017, 37552/2017 and 34002/2018 are concerned, the petitioners are auction purchasers and they seek that the Revenue authorities and the Village authorities be directed to effect transfer of registry of the concerned properties in their names and that they be permitted to remit the basic tax, notwithstanding the attachments effected on them at the instance of the Revenue. They assert that since they have purchased the properties under the provisions of the SARFAESI Act/RDB Act, they are entitled to own and possess the same free of all charges and encumbrances in view of the previous discussions in this judgment.

27. Once all the submissions and arguments of the learned counsel for the parties are recorded as above, it becomes enjoined on this Court to conclude affirmatively on the syllogistical claims and contentions for proper guidance in similar matters in the future.

28. To do this, I will first require to assessively speak on the legal attributes of a 'Charge' and a 'Mortgage'.

29. A 'Charge' is defined under Section 100 of the Transfer of Property Act (TP Act) in the following manner:

“Charges.- Where immovable property of one person is by act of parties or operation of law made security for the payment of money to another, and the transaction does not amount to a mortgage, the later person is said to have a charge on the property; and all the provisions hereinbefore contained [which apply to a simple mortgage shall, so far as may be, apply to such charge].”

30. While so, the statutory amplitude of a 'Mortgage' is explained in Section 58 of the same Act as below:

“Mortgage”, “mortgagor”, “mortgagee”, “mortgage-money” and “mortgage-deed” defined.- (a) A mortgage is the transfer of an interest in specific immovable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability.

The transferor is called a mortgagor, the transferee a mortgagee; the principal money and interest of which payment is secured for the time being are called the mortgage-money, and the instrument (if any) by which the transfer is effected is called a mortgage-deed.”

31. It is thus incontestable that a 'Charge' does not create any right over the property but allows the charge holder to deal with the property in the same manner as a simple mortgagee would be entitled to under the various Sections of the TP Act. I say this is uncontestable because Section 100 of the TP Act excludes Mortgage from the definition of a Charge but makes all the provisions applicable to a simple mortgage relevant to a Charge. Further, as is manifest from the second limb of Section 100, a Charge gets extinguished when the property is transferred to another person who obtains it for consideration and without notice of the said Charge. Therefore, while every Mortgage is a Charge over the property, every Charge is not a Mortgage and does not create any rights over the same in favour of the charge holder. It is not necessary for me to labour on these any further, because I have the guidance of the judgment of the Hon'ble Supreme Court declaring these principles very lucidly in **H.H.Maharajadhiraja Madhav Rao Jivaji Rao Scindia Bahadur of Gwalior** (supra), the relevant observations of which make these concepts absolutely certain and are, therefore, extracted as under:

“Under the general law relating to transfer of property, a charge does not give rise to a right in rem : the right is however more than a mere personal obligation, for it is a jus ad rem a right to payment out of property specified : *Govind Chandra Pal v. Dwaraka Nath Pal* (ILR 35

Cal 837, 843); *Raja Sri Shiva Prasad v. Beni Madhab* (ILR 1 Pat 387). A charge gives a right to payment out of a specific fund or property, and a right to prior payment; but it does not create a right in rem in the fund or the property. A charge therefore gives rise to a right to receive payment, out of a specified fund or property in preference over others."

32. These views, conclusions and declarations found unequivocal support in a subsequent judgment of the Hon'ble Supreme Court in **Dattatreya Shanker Mote and Others v. Anand Chitaman Datar and others** ((1974) 2 SCC 799), wherein the following were stated rather emphatically:

"In order to ascertain the true import of the terminology used in Section 100 of the Act, it is necessary to state clearly some of the basic concepts embodied in the Act which are beyond controversy. Section 5 defines "transfer of property" as meaning "an Act by which a living person conveys property, in present or in future, to one or more other living persons, or to himself, or to himself and one or more other living persons", and to "transfer property" is to perform such act. Section 6 says that property of any kind may be transferred, except as otherwise provided by the Act or by any other law for the time being in force other than those mentioned specifically in clauses (a) to (i) which cannot be transferred. Section 8 deals with the operation of transfer and says that unless a different intention is expressed or necessarily implied, a *transfer of property* passes forthwith to the transferee all the interest which the transferor is then capable of passing in the property, and in the legal incidents thereof. It then narrates all such incidents having regard to the land, debt, etc., etc. Chapter III of the Act deals specifically with sales of immoveable property, the sale in Section 54 be defined as *transfer of ownership* in exchange for a price paid or promised or part-paid and part-promised. Mortgages are dealt with in chapter IV where mortgage is defined in Section 58(a) as the *transfer of an interest* in specific immoveable property for the purpose of securing the payment of money advanced or to be advanced by way of loan. Different kinds of mortgages are also specified in that section of which clause (b) states what a simple mortgage is, namely,

where, without delivering possession of the mortgaged property, the mortgagor binds himself personally to pay the mortgage-money and agrees, expressly or impliedly, that in the event of his failing to pay according to his contract, the mortgagee shall have a right to cause the mortgaged property to be sold and the proceeds of sale to be applied, so far as may be necessary, in payment of the mortgage-money, the transaction is called a simple mortgage and the mortgagee a simple mortgagee.

A charge on the other hand under Section 100 of the Act is neither a sale nor a mortgage because it creates no interest in or over a specific immoveable property but is only a security for the payment of money.”

33. A close survey of the afore judgments thus renders it beyond contest that the words 'First Charge' and 'priority in payment of debts' are virtually synonymous and means the same, except for its semantic variation on account of differing phraseology. In both events, the holder obtains the privilege of recovery before anyone else and hence, whether it is the 'First Charge' or the right to claim 'Priority' in recovery, the ultimate effect and consequence is the same.

34. Thus, even though the KGST Act/KVAT Act creates a 'First Charge' in favour of the Revenue to recover the arrears of tax, the afore provisions of the SARFAESI Act and RDB Act make the secured dues entitled to be paid in priority over such taxes and in fact, elevates the rights of the secured creditor, to recover such dues, also to a position of priority.

35. As has also been rightly understood by the learned Additional Advocate General, the cumulative effect is that whoever sells the property or in whatever manner it is sold, the secured debts will require to be paid off first and all others will have to wait for their turn. Viewed in this purlieu, the predication of the learned Additional Advocate General that the 'First Charge' of the Revenue over the properties will be extinguished only if they sell the property first, pails into insignificance because the statutory right of the Revenue is, at the best, to bring the property to sale and nothing more.

36. Irrefragibly, when the secured creditors have a right in priority to have their debts extinguished, obviously, their right to proceed against the property would also rank high than that is claimed by the Revenue. The assertion of the Revenue that their 'Charge' will continue over the property until it is sold by them, hence, is rendered without forensic support to stand on.

37. That so said, the next question that arises is whether Section 26E of the SARFAESI Act and Section 31B of the RDB Act create an overriding and first right in favour of the Banks/ Financial Institutions to recover their dues, over and above the rights of the Revenue created through the KGST Act/KVAT Act. In fact, this

enquiry has been rendered relatively easy for this Court because, in **Central Bank of India v. State of Kerala and Others** ((2009) 4 SCC 94), the Hon'ble Supreme Court considered the right of the Banks/Financial Institutions as regards recovery of their dues prior to the afore two provisions being introduced in the SARFAESI Act and in the RDB Act. The conclusions of the Hon'ble Supreme Court are unequivocally worded that, in the absence of these provisions in the respective Statutes, the Banks/Financial Institutions cannot claim any priority over the Revenue's First Charge on the properties concerned for recovery of dues of Sales Tax/Value Added Tax. The disposition of the Hon'ble Court in this area is lucid and available in paragraphs 126, 129 and 130 of the said judgment, which requires to be read in full and is, therefore, re-produced as under:

"126. While enacting the DRT Act and the Securitisation Act, Parliament was aware of the law laid down by this Court wherein priority of the State dues was recognised. If Parliament intended to create first charge in favour of banks, financial institutions or other secured creditors on the property of the borrower, then it would have incorporated a provision like Section 529 A of the Companies Act or Section 11(2) of the EPF Act and ensured that notwithstanding series of judicial pronouncements, dues of banks, financial institutions and other secured creditors should have priority over the State's statutory first charge in the matter of recovery of the dues of sales tax, etc. However, the fact of the matter is that no such provision has been incorporated in either of these enactments despite conferment of extraordinary power upon the secured creditors to take possession and dispose of the secured assets without the intervention of the court or Tribunal. The reason for this omission appears to be that the

new legal regime envisages transfer of secured assets to private companies.

129. If Parliament intended to give priority to the dues of banks, financial institutions and other secured creditors over the first charge created under State legislations then provisions similar to those contained in Section 14-A of the Workmen's Compensation Act, 1923, Section 11(2) of the EPF Act, Section 74(1) of the Estate Duty Act, 1953, Section 25(2) of the Mines and Minerals (Regulation and Development) Act, 1957, Section 30 of the Gift Tax Act, and Section 529-A of the Companies Act, 1956 would have been incorporated in the DRT Act and the Securitisation Act.

130. Undisputedly, the two enactments do not contain provision similar to the Workmen's Compensation Act, etc. In the absence of any specific provision to that effect, it is not possible to read any conflict or inconsistency or overlapping between the provisions of the DRT Act and the Securitisation Act on the one hand and Section 38-C of the Bombay Act and Section 26-B of the Kerala Act on the other and the non obstante clauses contained in Section 34(1) of the DRT Act and Section 35 of the Securitisation Act cannot be invoked for declaring that the first charge created under the State legislation will not operate qua or affect the proceedings initiated by banks, financial institutions and other secured creditors for recovery of their dues or enforcement of security interest, as the case may be."

38. When one reads the afore opinion of the Hon'ble Supreme Court, it is left without any doubt that, but for Section 26E of the SARFAESI Act and Section 31B of the RDB Act, such Statutes do not, in any manner, operate to create a better right for recovery in favour of the Banks/Financial Institutions over that of the Revenue. However, these provisions were brought in and incorporated in the respective Statutes after this judgment, clearly with the intend to override this lacuna. Therefore, the resultant question is whether these provisions

would create a better right in favour of the Banks/Financial Institutions, which is superior to that enjoyed by the Revenue under the KGST Act/KVAT Act.

39. The learned Additional Advocate General, as I have already seen above, has built his entire arguments on the assertion that the statutory First Charge 'creates a right' for the State over the properties and that such right can be extinguished only if the Revenue sells the property and in no other manner. However, as has already been held by me above, the 'First Charge' claimed by the Revenue does not and cannot create any right over the property but only enables it to deal with the same as a simple mortgagee would be entitled to. Obviously, therefore, the contention of the Revenue built on 'a claim of right' over the properties fails, without any further requirement for expatiation; corollarily, enjoining me to consider if the provisions of the KGST Act/KVAT Act would still grant to the Revenue the First Right to proceed against it for recovery of the tax arrears.

40. It is here that the specific provisions of Section 26E of the SARFAESI Act and Section 31B of the RDB Act become necessary for a detailed evaluation.

41. As has been extracted above, Section 26E of the SARFAESI Act provides that the debts due to any secured creditor shall be paid in priority over all other debts and all revenue, taxes, cesses and other rates payable to the Central Government or State Government or Local Authority. Section 31B of the RDB Act takes this one step forward and elevates the right of the secured creditors to realise their debts, by sale of the secured assets, to enjoy priority and then re-affirms that such debts will be paid in priority over the revenue, taxes, cesses and other rates payable to the Central Government or State Government or Local Authority. It is thus irrefragible and in fact, expressly conceded to by the learned Additional Advocate General that the Banks/Financial Institutions have the First Right to have their debts extinguished; but, as has been recorded above, the Revenue merely claims that they have right to sell the property first. This argument again is flawed because the 'First Charge' creating no right over the property, the Revenue cannot claim a First Right to proceed against it either in the face of the provisions of the SARFESI Act or RDB Act with which we are dealing in this case. In fact, on a closer look and in the ultimate analysis, the concept of 'First Charge' and 'debt being paid in priority' are fraternal

twin provisions which virtually means the same - both giving the holder such rights, the benefit of selling the property and recovering their dues before any other.

42. A further test of the afore proposition, if so necessary, is not different because the principles of 'priority in payment of dues' in the context of the Companies Act have been considered by the Hon'ble Supreme Court in several judgments and many of them have been cited by the learned counsel for the respondents Banks/Financial Institutions. I will briefly deal with a few of them solely to confirm that my view as afore do not suffer from error.

43. In **Textile Labour Association** (supra), the provisions of Sections 529 and 529A of the Companies Act, 1956 were closely examined and the Hon'ble Supreme Court declared its ambit as under:

“The effect of Sections 529 and 529-A is that the workmen of the company become secured creditors by operation of law to the extent of the workmen's dues provided there exists secured creditor by contract. If there is no secured creditor then the workmen of the company become unsecured preferential creditors under Section 529-A to the extent of the workmen's dues. The purpose of Section 529-A is to ensure that the workmen should not be deprived of their legitimate claims in the event of the liquidation of the company and the assets of the company would remain charged for the payment of the workers' dues and such charge will be *pari passu* with the charge of the secured creditors. There is no other statutory provision overriding the claim of the secured creditors except Section 529-A. This section overrides preferential claims under Section 530 also.

Under Section 529-A the dues of the workers and debts due to the secured creditors are to be treated *pari passu* and have to be treated as prior to all other dues.”

44. Thereafter, in **Maharashtra State Cooperative Bank Limited** (supra), the Hon'ble Court alluded **Textile Labour Association** (supra) and re-affirmed the afore-extracted view, in paragraph 40 of the said judgment.

45. A year later, in 2011, the Hon'ble Court, in **Official Liquidator of Esskay Pharmaceuticals Limited** (supra) exhaustively went into the issues relating to the recovery of crown debts juxtaposed against Sections 529/529A of the Companies Act and Section 11(2) of the EPF Act and held that the provisions of the Companies Act and the EPF Act offer a statutory priority to the amounts payable under it notwithstanding the State's claim, thus making it luculent that priority in recovery of the amounts protected by these two Statutes override the 'First Charge' claimed by the State or its Revenue under the Taxing Statutes or such other.

46. Finally, in 2013, the Hon'ble Supreme Court, in **Jitendra Nath Singh** (supra), again considered these issues in the context of certain specific facts relating to the priority in recovery of secured debts and the rights of workmen under Sections 529 and 529A of the

Companies Act and emphatically stated as under in paragraphs 14 and 16.2 thereof:

“14. Section 529-A of the Companies Act states that notwithstanding anything contained in any other provision of the Companies Act or any other law for the time being in force, in the winding up of a company - (a) workmen's dues; and (b) debts due to secured creditors to the extent such debts rank under clause (c) of the proviso to sub-section (1) of Section 529 of the Companies Act *pari passu* with such dues, shall be paid in priority to all other debts. This would mean that the workmen's dues and only the debts due to the secured creditors to the extent such debts rank *pari passu* with workmen's dues under clause (c) of the proviso to sub-section (1) of Section 529 will have priority over all other debts of the company. The entire object of Section 529-A of the Companies Act is to ensure overriding preferential payment of (a) the workmen's dues and (b) debts due to secured creditors to the extent such debts rank under clause (c) of the proviso to sub-section (1) of Section 529 *pari passu* with the workmen's dues. The effect of the non obstante clause in the opening part of Section 529-A of the Companies Act, therefore, is that notwithstanding anything in the Companies Act and any other law including the Insolvency Act, workmen's dues and dues of the secured creditor which could not be realised because of the *pari passu* charge in favour of the workmen under the proviso to sub-section (1) of Section 529 and only to the extent such dues rank *pari passu* with the dues of the workmen under clause (c) of the said proviso are paid in priority over all other dues.

16.2. Over the security of every secured creditor, a statutory charge has been created in the first limb of the proviso to clause (c) of sub-section (1) of Section 529 of the Companies Act in favour of the workmen in respect of their dues from the company and this charge is *pari passu* with that of the secured creditor and is to the extent of the workmen's portion in relation to the security of any secured creditor of the company as stated in clause (c) of sub-section (3) of Section 529 of the Companies Act.”

47. The above cited judgments certainly support my views as afore and it axiomatically becomes justified for me to hold that Section 26E of the SARFAESI Act and Section 31B of the RDB Act

create a 'First Charge' by way of a priority to the Banks/Financial Institutions to recover and satisfy their debts, notwithstanding any statutory 'First Charge' in favour of the Revenue under the KGST Act/KVAT Act. It is so declared.

48. My conclusions as afore being indited, it, normally, may not have been necessary to evaluate the submissions of the learned Counsel for the Banks/Financial Institutions with respect to the repugnancy between the Statutes involved or the principles of 'dominant legislation' and 'primacy to the Central Legislation under Articles 254 and 246(1) of the Constitution of India'. However, the submission of the Revenue that since Section 26E of the SARFAESI Act has not yet been notified, its provisions cannot be enjoyed by the Banks/Financial Institutions as claimed by them, enjoins me to consider these issues in some depth. As noticed earlier, the learned Additional Advocate General seeks substantial support for the Revenue's claim over the property on the fact that Section 26E of the SARFAESI Act has yet not been notified and this is virtually accepted even by the petitioners. The crucial question, therefore, is whether this factum would enervate the claim of priority of the Banks/Financial Institutions. I am afraid that even this contention of the

learned Additional Advocate General cannot be found legally untenable, because it has been unreservedly affirmed by the Hon'ble supreme Court in **Mar Appraem Kuri Company Limited** (supra) that the concepts of 'primacy of legislation' and 'repugnancy' would be invited as soon as the Parliament 'made' a Statute, which is to say even before it is notified. The above views of the Hon'ble Court is available in paragraphs 47, 59 and 61 of the judgment, which are excerpted under:

“47. The question of repugnancy between parliamentary legislation and State legislation arises in two ways. First, where the legislations, though enacted with respect to matters in their allotted spheres, overlap and conflict. Second, where the two legislations are with respect to matters in the Concurrent List and there is a conflict. In both the situations, the parliamentary legislation will predominate, in the first, by virtue of *non obstante* clause in Article 246(1); in the second, by reason of Article 254(1).

59. Let us assume for the sake of argument that the State of Kerala were to obtain the assent of the President under Article 254(2) of the Constitution in respect of the insertion of Section 4(1)(a) by the Kerala Finance Act 7 of 2002. Now, Article 254(2) deals with the situation where State legislation is reserved and having obtained the President's assent, prevails in the State over the Central law. However, in view of the proviso to Article 254(2), Parliament could have brought a legislation even to override such assented-to State Finance Act 7 of 2002 without waiting for the Kerala Finance Act 7 of 2002 to be brought into force as the said proviso states that nothing in Article 254(2) shall prevent Parliament from *enacting* at any time, any law *with respect to* the same matter including a law adding to, amending, varying or repealing the law so *made* by the State Legislature [emphasis supplied].

61. The entire above discussion on Articles 245, 246, 250 and 251 is only to indicate that the word “made” has to be read in the context of

the law-making process and, if so read, it is clear that to test repugnancy one has to go by the *making* of law and not by its *commencement*."

49. The above conclusions of the Hon'ble Court certainly places a lid on this argument made on behalf of the Revenue and in any event of the matter, they themselves concede that Section 31B of the RDB Act has been notified. Hence, even assuming and is taken that Section 26E of the SARFAESI Act cannot apply for want of notification, it would be of no avail to the Revenue, because the provisions of Section 31B of the RDB Act clearly place the right of the secured creditor to proceed against the property as well as their right to recover the secured debts in a position of priority over all tax arrears claimed by the Revenue.

50. That said, solely for the purpose of completing the narrative, if one is to suspect that there is either repugnancy or conflict between the provisions of the KGST Act/KVAT Act on one hand and the SARFAESI Act/RDB Act on the other, it is indubitable from a reading of **Santosh Gupta** (supra), **J.B.Educational Society** (supra) and **Dipak Debbarma** (supra) that in the event of any such or even in the event of incidental encroachment of the provisions of the former into that of the latter under the constitutional mandate of

Articles 254 and 246(1) of the Constitution of India, the latter would prevail, since they have been enacted under List II Entry 45 therein. Pertinently, no expatiation on this is required at my hand, since the learned Additional Advocate General concedes to this proposition and admits, as has been recorded *ut supra*, that even if the Revenue sells the property first, the secured debts will have to be honoured before the tax arrears can be recovered. I, therefore, leave it there.

51. The only remaining question is whether the provisions of the KGST Act/KVAT Act or that of the RR Act can obtain protection under Section 37 of the SARFAESI Act, thus enabling the Revenue to seek that their amounts also be allowed to be recovered complementary to the action of the secured creditors. The answer to this is not difficult to obtain since I have to only read paragraph 39 of the judgment of the Hon'ble Supreme Court in **Madras Petrochem Limited** (supra), which dispels all doubt that it is not so, while stating as under:

“This is what then brings us to the doctrine of harmonious construction, which is one of the paramount doctrines that is applied in interpreting all statutes. Since neither Section 35 nor Section 37 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 is subject to the other, we think it is necessary to interpret the expression “or any other law for the time being in force” in Section 37. If a literal meaning is given to the said expression, Section 35 will become completely otiose as

all other laws will then be in addition to and not in derogation of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002. Obviously this could not have been the parliamentary intendment, after providing in Section 35 that the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 will prevail over all other laws that are inconsistent therewith. A middle ground has, therefore, necessarily to be taken. According to us, the two apparently conflicting sections can best be harmonised by giving meaning to both. This can only be done by limiting the scope of the expression "or any other law for the time being in force" contained in Section 37. This expression will, therefore, have to be held to mean other laws having relation to the securities market only, as the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 is the only other special law, apart from the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, dealing with recovery of debts due to banks and financial institutions. On this interpretation also, the Sick Industrial Companies (Special Provisions) Act, 1985 will not be included for the obvious reason that its primary objective is to rehabilitate sick industrial companies and not to deal with the securities market."

52. The position being ineluctably as above, as rightly pointed out by Sri.Madhu Radhakrishnan, the views of the other High Courts in **The Indian Overseas Bank** (supra) and **Axis Bank Limited** (supra) persuades me to follow them and hold that a secured creditor, under Section 26E of the SARFAESI Act and Section 31B of the RDB Act, obtains priority over the right claimed by the Revenue both in proceeding against the properties in question or in recovering the secured debt.

53. Before I conclude, I am enjoined to meet the other argument of the learned Additional Advocate General that the

judgment of the Hon'ble Supreme Court in **Official Liquidator of Esskay Pharmaceuticals Limited** (supra) would support the Revenue and that the words 'First Charge' mean a better right. The learned Additional Advocate General certainly relies on paragraphs 48, 49 and 50 of the said judgment to assert that even after Sections 529 and 529-A of the Companies Act, 1956 had been brought in, the 'First Charge' under Section 11(2) of the EPF Act is not extinguished or overridden. I am afraid that this submission, though may appear appealing at the first look, is completely untenable because the Hon'ble Supreme Court found therein that since the dues to the workmen also enjoy priority under the aforementioned provisions of the Companies Act, the earlier provisions in the EPF Act, namely Section 11(2) thereof, which made such payments a 'First Charge' over the property, can only be seen to be fortified and not overridden. The Hon'ble Supreme Court, therefore, clearly assimilated the First Charge of the workmen's dues under the EPF Act and priority in payment of such dues under the Companies Act, concluding that the provisions of Section 11(2) of the EPF Act are only bolstered and supported by the provisions of Sections 529 and 529A of the Companies Act. This view certainly does not support the submissions

of the learned Additional Advocate General, since arrears of tax revenue have not been, in any manner, protected either by the SARFAESI Act or by the RDB Act.

54. In the afore circumstances, it becomes needless to say that these writ petitions must succeed.

Resultantly,

(a) W.P.(C)No.28316/2016 is allowed and Exhibits P8 to P10 are quashed, consequentially restraining respondents 1 to 3 from initiating any further action pursuant to these proceedings.

(b) W.P.(C)No.5899/2017 is allowed and the petitioner is at liberty to proceed against the property involved therein under the provisions of the SARFAESI Act and RDB Act, notwithstanding Exhibit P6 attachment order issued by the first respondent; with a further direction that once the property is sold by the petitioner, the said attachment will be effaced by the competent authority, subject to the right of respondents 1 to 3 to proceed against any surplus after satisfaction of the petitioner's debt.

(c) W.P.(C)No.31945/2017 is allowed and the second and third respondents are directed to effect transfer of registry of the property involved in this case into the name of the petitioner consequent to the

sale certificate issued in her favour by the fourth respondent and to permit her to remit the property tax due thereof; with a consequential direction to the third respondent to efface the attachments, if any, effected on the property by the Revenue thereafter.

(d) W.P.(C)No.37543/2017 is allowed quashing Exhibit P8 communication issued by the third respondent, with a resultant direction to the said respondent to register Exhibit P7 sale certificate *de hors* the attachment made by the Revenue and to efface the said attachment thereafter, with liberty being reserved to the Revenue to claim the balance consideration, if any, after the debt of the first respondent Bank is fully paid off.

(e) W.P.(C)No.37552/2017 is allowed and Exhibits P2 and P3 will stand quashed; with a resultant direction to the second respondent to register Exhibit P1 certificate *de hors* the attachment made by the Revenue over it and to thereafter efface the said attachment; however, reserving liberty to the Revenue to claim any amounts that may be available in surplus from the sale consideration, after the debt of the petitioner is fully paid off.

(f) W.P.(C)No.468/2018 is allowed and Exhibit P7 series notices are quashed, thus permitting the petitioner Bank to proceed

against the property in question under the SARFAESI Act or RDB Act *de hors* the attachment made by the Revenue thereon; with a consequential direction to the concerned Sub Registrar to efface the attachment once the sale is over and reserving liberty to the Revenue to proceed against the balance, if any, of the sale consideration after the petitioner's debt is satisfied.

(g) W.P.(C)No.12849/2018 is allowed and Exhibit P2 will stand quashed, thus leaving full liberty to the petitioner to deal with the property in question under the SARFAESI Act and RDB Act, however, reserving the right of the Revenue to claim the surplus of the sale consideration, if any, once the debt of the petitioner is fully extinguished.

(h) W.P.(C)No.27147/2018 is allowed declaring that the petitioner is entitled to proceed against the property in question for recovery of their debts *de hors* the attachment made by respondents 2 to 4 and further directing the said respondents to deliver back possession of the property in question to the petitioner forthwith; leaving liberty to the Revenue to proceed against any surplus that may be available after satisfaction of the petitioner's debt as per law.

(i) W.P.(C)No.34002/2018 is allowed and the third respondent is directed to register Exhibit P1 sale certificate issued by the first respondent on satisfaction of the requisite stamp duty and other formalities *de hors* the attachments effected over the property by the Revenue and respondents 6 to 8; with a consequential direction to the third respondent to efface these attachments, leaving liberty to the Revenue and respondents 6 to 8 to pursue their remedies against any surplus that may be available after the debt of the first respondent Bank is fully satisfied.

(j) W.P.(C)No.34380/2018 is allowed and Exhibit P3 will stand quashed and the fourth respondent is directed to register Exhibit P1 certificate, if not already done, subject to the satisfaction of the requisite stamp duty and all other formalities, with a further direction to the third respondent to effect transfer of registry of the property covered by Exhibit P1 sale certificate in favour of the auction purchaser and to permit him to remit the property tax after registration of the document is completed.

(k) W.P.(C)No.19639/2019 is allowed and Exhibit P1 will stand quashed, thus permitting the petitioner Bank to proceed against the property in question under the provisions of the SARFAESI Act and

RDB Act *de hors* the attachment that may have been made on it by the Revenue; with an axiomatic declaration that the attachment, if any, made by the Revenue is only subservient to the right of the Bank and therefore, they can only claim the balance sale consideration, if any, after the debt of the petitioner is fully satisfied, consequent to the sale to be conducted by them.

(l) W.P.(C)No.28962/2017 will stand dismissed in view of the declarations in this judgment.

tkv

Sd/-
Devan Ramachandran, Judge

APPENDIX OF WP(C) 28316/2016

PETITIONER'S EXHIBITS:

EXHIBIT P1:	COPY OF THE LETTER OF SANCTION DATED 21.7.2009
EXHIBIT P2:	COPY OF THE LETTER OF ARRANGEMENT DATED 16.6.2010
EXHIBIT P3:	COPY OF THE LETTER OF ARRANGEMENT DATED 27.8.2014
EXHIBIT P4;	COPY OF LETTER DATED 22.06.2010
EXHIBIT P5:	COPY OF THE LETTER DATED 28.8.2014
EXHIBIT P6:	COPY OF THE EXTRACT OF THE ENTRY MADE WITH THE CENTRAL REGISTRY
EXHIBIT P7:	COPY OF THE DEMAND NOTICE DATED 1.8. ISSUED UNDER SECTION 13(2) OF THE SECURITIZATION ACT
EXHIBIT P8:	COPY OF THE ENCUMBRANCE CERTIFICATE DATED 13.7.2016
EXHIBIT P9:	COPY OF THE SALE NOTICE DATED 3.8.2016 ISSUED BY THE 3RD RESPONDENT
EXHIBIT P10:	COPY OF THE VALUATION REPORT GIVEN TO THE PETITIONER BY THE REGISTERED VALUOR

/TRUE COPY/

P.S. TO JUDGE

APPENDIX OF WP (C) 468/2018**PETITIONER'S EXHIBITS:**

EXHIBIT P1	TRUE COPY OF THE LOAN SANCTIONING LETTER DATED 11.03.2013 TOGETHER WITH ITS ANNEXED DOCUMENTS.
EXHIBIT P2	TRUE COPY OF THE ORAL ASSENT RECORDED BY THE MANAGER OF PETITIONER BANK DATED 24.04.2013, AT THE TIME OF DEPOSIT OF TITLE DEEDS.
EXHIBIT P2 (a)	TRUE COPY OF THE RELEVANT PAGE OF THE MORTGAGE REGISTER.
EXHIBIT P3	TRUE COPY OF THE REGISTRATION DETAILS MAINTAINED BY CERSAI WHICH WAS DOWNLOADED FROM INTERNET.
EXHIBIT P4	TRUE COPY OF THE NOTICES UNDER SECTION 13(2) OF THE SARFAESI ACT ISSUED TO RESPONDENTS 5 AND 6 BY THE PETITIONER BANK.
EXHIBIT P5	TRUE COPY OF THE POSSESSION NOTICES UNDER SECTION 13(4) OF THE SARFAESI ACT ISSUED BY THE PETITIONER BANK.
EXHIBIT P6	TRUE COPY OF THE LETTER DATED 20.11.2017 ISSUED BY THE 3RD RESPONDENT.
EXHIBIT P7	TRUE COPY OF THE NOTICES ISSUED BY THE 3RD RESPONDENT UNDER SECTION 46 AND 49 OF THE KERALA REVENUE RECOVERY ACT.
EXHIBIT P8	TRUE COPY OF THE OBJECTIONS DATED 30.11.2017 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT TO THE PROCEEDINGS UNDER THE KERALA REVENUE RECOVERY ACT.

EXHIBIT P9	TRUE COPY OF THE LETTER DATED 08.12.2017 ISSUED BY THE 3RD RESPONDENT.
EXHIBIT P10	TRUE COPY OF THE ONLINE DETAILS FROM THE WEBSITE OF REGISTRAR OF COMPANIES AS REGARDS THE INCORPORATION OF 4TH RESPONDENT COMPANY.
EXHIBIT P11	TRUE COPY OF THE JUDGMENT OF THE BOMBAY HIGH COURT REPORTED IN 2017 SCC ONLINE BOM.274.
EXHIBIT P12	TRUE COPY OF THE JUDGMENT OF THE MADRAS HIGH COURT REPORTED IN 2016 SCC ONLINE MAD. 33329.
EXHIBIT P13	TRUE COPY OF THE JUDGMENT OF THE ANDHRA HIGH COURT REPORTED IN 2017 SCC ONLINE HYD.252.

/TRUE COPY/

P.S. TO JUDGE

APPENDIX OF WP(C) 5899/2017

PETITIONER'S EXHIBITS:

EXT.P1	COPY OF LOAN AGREEMENT DATED 24/10/2010 IN FAVOUR OF THE PETITIONER
EXT.P2	COPY OF THE LETTER CONFIRMING MORTGAGE BY DEPOSIT OF TILE DEEDS
EXT.P3	COPY OF THE SALE DEED 3818/10 DATED 24/11/2010
EXT.P4	COPY OF THE DEMAND NOTICE UNDER SEC. 13(2) OF THE SARFAESI ACT ISSUED TO THE 4TH RESPONDENTS AND OTHER CO-OBLIGANTS/SURETIES TO THE LOAN
EXT.P5	COPY OF THE POSSESSION NOTICE/S 13(4) OF SARFAESI ACT DATED 16/7/2014 EVIDENCING SYMBOLIC POSSESSION OF THE PROPERTY BY THE PETITIONER
EXT.P6	COPY OF THE ATTACHMENT ORDER/NOTICE ISSUED BY THE 1ST RESPONDENT ON THE SECURED ASSET PROPERTY OF THE PETITIONER

/TRUE COPY/

P.S. TO JUDGE

APPENDIX OF WP (C) 12849/2018

PETITIONER'S EXHIBITS:

EXT .P1	TRUE COPY OF THE CERTIFICATE OF REGISTRATION ISSUED BY THE RESERVE BANK OF INDIA IN FAVOUR OF ARCIL
EXT.P2	TRUE COPY OF THE ATTACHMENT OF THE IMMOVABLE PROPERTIES UNDER FORM 11 ISSUED BY THE 2ND RESPONDENT
EXT.P3	TRUE COPY OF ASSIGNMENT AGREEMENT (NO.8815/2007)
EXT.P4	TRUE COPY OF POSSESSION NOTICE ISSUED WITH RESPECT TO THE TWO PROPERTIES BELONGING TO THE PETITIONER
EXT.P4 (a)	TRUE COPY OF POSSESSION NOTICE ISSUED WITH RESPECT TO THE TWO PROPERTIES BELONGING TO THE PETITIONER.

/TRUE COPY/

P.S. TO JUDGE

APPENDIX OF WP (C) 19639/2019**PETITIONER'S EXHIBITS:**

EXHIBIT P1	COPY OF SALE NOTICE DATED 12.06.2019 ISSUED BY THE THIRD RESPONDENT
EXHIBIT P2	COPY OF THE LETTER DATED 09.03.2010 OF THE FOURTH RESPONDENT CONFIRMING THE DEPOSIT OF TITLE DEED AND CREATION OF MORTGAGE
EXHIBIT P3	COPY OF THE TITLE DEED NO.4005/2009 DATED 11.11.2009 OF PERUMBAVOOR SRO EXECUTED BY THE 5TH RESPONDENT
EXHIBIT P4	COPY OF THE SECTION 13(2) NOTICES DATED 24.07.2013
EXHIBIT P5	COPY OF THE SECTION 13(2) NOTICES DATED 24.07.2013
EXHIBIT P6	COPY OF THE PAPER PUBLICATION MADE IN THE INDIAN EXPRESS DAILY DATED 01.09.2013
EXHIBIT P6 A	COPY OF THE PAPER PUBLICATION MADE IN MANGALAM DAILY DATED 01.09.2013
EXHIBIT P7	COPY OF THE RELEVANT PORTION OF THE OA FILED BY THE PETITIONER BEFORE DRT-1 FILED AS O.A.92/2015
EXHIBIT P8	COPY OF THE POSSESSION NOTICE DATED 08.11.2013
EXHIBIT P9	COPY OF OBJECTIONS SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT
EXHIBIT P10	COPY OF THE JUDGMENT DATED 10.11.2016 IN W.P.NO.2675/2011 OF THE HIGH COURT OF JUDICATURE AT MADRAS

/TRUE COPY/

P.S. TO JUDGE

APPENDIX OF WP (C) 27147/2018**PETITIONER'S EXHIBITS:**

EXHIBIT P1	TRUE COPY OF FORM 15 ISSUED BY THE OFFICE OF THE THIRD RESPONDENT.
EXHIBIT P2	TRUE COPY OF BOARD RESOLUTION DATED 30.01.2018, IN FAVOUR OF MS.GURLEEN CHHABRA.
EXHIBIT P3	COPY OF THE SANCTION LETTER DATED 11.12.2012 ISSUED BY ASSIGNOR BANK/STATE BANK OF TRAVANCORE.
EXHIBIT P4	TRUE COPY OF MEMORANDUM OF DEPOSIT OF TITLES DEEDS BY JOINT OWNERS, DATED 21.12.2012, IN FAVOUR OF THE ASSIGNOR BANK/STATE BANK OF TRAVANCORE.
EXHIBIT P5	TRUE COPY OF NOTICE DATED 18.03.2015 UNDER SECTION 13(2) OF THE SARFAESI ACT, 2002.
EXHIBIT P6	TRUE COPY OF POSSESSION NOTICE DATED 28.05.2015 UNDER SECTION 13(4) OF THE SARFAESI ACT, 2002.
EXHIBIT P7	COPY OF THE O.A.No.135/2016, TITLED AS "STATE BANK OF TRAVANCORE VERSUS ERNAKULAM TOURIST BANGALOW, THE FERN, & ORS., PENDING BEFORE THE DEBTS RECOVERY TRIBUNAL, ERNAKULAM.
EXHIBIT P8	TRUE COPY OF THE APPLICATION UNDER SECTION 14 OF THE SARFAESI ACT, 2002 (BEARING CR.M.P.No.2353/2016) TITLED AS "STATE BANK OF TRAVANCORE VERSUS ERNAKULAM TOURIST BUNGALOW, UNIT BEAUMONDE- THE FERN & OTHERS"

EXHIBIT P9 COPY OF THE ASSIGNMENT AGREEMENT, DATED 30.03.2017.

EXHIBIT P10 COPY OF THE ORDER DATED 10.08.2017 PASSED BY LEARNED CHIEF JUDICIAL MAGISTRATE, ERNAKULAM IN CR.M.P.No.2353/2016)

EXHIBIT P11 COPY OF THE ORDER DATED 19.12.2017 PASSED BY LEARNED CHIEF JUDICIAL MAGISTRATE, ERNAKULAM IN CR.M.P.No.2353/2016)

EXHIBIT P12 COPY OF THE LETTER/OBJECTION DATED 09.01.2018, ISSUED BY PETITIONER/PHOENIX, TO THE DISTRICT COLLECTOR, ERNAKULAM.

EXHIBIT P13 COPY OF THE OBJECTION FILED BY THE DISTRICT COLLECTOR, ERNAKULAM IN CR.M.P.No.2353/2016 ALONG WITH ITS ENGLISH TRANSLATION No.B3-35228/2015 DATED 31.01.2018.

EXHIBIT P14 COPY OF THE REPLY FILED BY PHOENIX TO THE OBJECTIONS FILED BY THE DISTRICT COLLECTOR, ERNAKULAM IN CR.MP.No.2353/2016.

EXHIBIT P15 COPY OF LETTER DATED 16-03-2018 ISSUED BY PHOENIX TO THE LEARNED DISTRICT COLLECTOR.

EXHIBIT P16 COPY OF THE OBJECTION DATED 17-07-2018, FILED BY THE OFFICE OF LEARNED COLLECTOR (THROUGH SPECIAL TEHSILDR (RR), KANAYANNUR, ERNAKULAM.

EXHIBIT P17 COPY OF THE VALUATION REPORT SUBMITTED BY ER FRANCIS P IGNATIUS

EXHIBIT P18 COPY OF THE VALUATION REPORT SUBMITTED BY M/S.MECC ASSOCIATES ENGINEERS CONSULTANTS AND APPROVED VALUERS.

RESPONDENT'S EXHIBITS:

ANNEXURE R3 (b) A TRUE PHOTOCOPY OF THE REPLY OF THE SBI.

EXHIBIT R1 (a) A TRUE PHOTOCOPY OF THE MINUTES THE MEETING
DT. 16.11.2018.

EXHIBIT R1 (b) A TRUE PHOTOCOPY OF THE LETTER OF THE SPECIAL
TAHSILDAR (RR) DT. 17-12-2018.

EXHIBIT R3(a) A TRUE PHOTOCOPY OF THE LETTER OF THE SALES TAX OFFICER,
3RD CIRCLE, ERNAKULAM DATED 07.06.2019

EXHIBIT R3(b) A TRUE PHOTOCOPY OF THE LETTER OF THE SALES TAX OFFICER
(LT), ERNAKULAM DATED 07.06.2019

EXHIBIT R3(c) A TRUE PHOTOCOPY OF THE LETTER ISSUED FROM THE
COLLECTORATE, ERNAKULAM TO THE BRANCH MANAGER, SBI (FORMERLY SBT)
COMMERCIAL BRANCH DATED 04.01.2019

EXHIBIT R3(d) A TRUE PRINTOUT OF THE EMAIL NO.5387 SBI-sbi.05387@sbi.CO.IN -
DT. 09.01.19

/TRUE COPY/

P.S. TO JUDGE

APPENDIX OF WP (C) 28962/2017**PETITIONER'S EXHIBITS:**

EXHIBIT P1	A TRUE COPY OF THE JUDGMENT DATED 29.06.2016 IN WPC.NO. 13737/2016
EXHIBIT P2	A TRUE COPY OF THE JUDGMENT DATED 01.09.2016 IN WA.NO. 1737/2016
EXHIBIT P3	A TRUE COPY OF THE COMMUNICATION DATED 15.01.2014 ISSUED BY THIS 4TH RESPONDENT
EXHIBIT P4	A TRUE COPY OF THE NOTICE DATED 27.01.2014 ISSUED BY THE TAHSILDAR (REVENUE RECOVERY) KOLLAM
EXHIBIT P5	A TRUE COPY OF THE NOTICE DATED 28.01.2014 ISSUED BY THE TAHSILDAR (REVENUE RECOVERY) KOLLAM
EXHIBIT P6	A TRUE COPY OF THE COMMUNICATION DATED 21.07.2016 ISSUED BY THE 4TH RESPONDENT
EXHIBIT P7	A TRUE COPY OF THE NOTICE NO.SAMB/EKM/ 2017-18/016 DATED 13.04.2017 ISSUED BY THE 3RD RESPONDENT
EXHIBIT P8	A TRUE COPY OF THE NOTICE PUBLISHED IN THE INDIAN EXPRESS DAILY DATED 20.04.2017
EXHIBIT P9	A TRUE COPY OF THE ENCUMBRANCE CERTIFICATE DATED 18.08.2017
EXHIBIT P10	A TRUE COPY OF THE NOTICE NO.SAMB/EKM/ 2017/167 DATED 07.08.2017 ISSUED BY THE 3RD RESPONDENT
EXHIBIT P11	A TRUE COPY OF THE NOTICE PUBLISHED IN THE INDIAN EXPRESS DAILY DATED 14.08.2017

EXHIBIT P12

**A TRUE COPY OF THE REPRESENTATION DATED
10.08.2017 SUBMITTED BY THE PETITIONER
BEFORE THE 5TH RESPONDENT**

/TRUE COPY/

P.S. TO JUDGE

APPENDIX OF WP(C) 31945/2017

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE SALE CERTIFICATE NO. 1367/2017 REGISTERED BEFORE THE ERNAKULAM S.R.O.
EXHIBIT P2	TRUE COPY OF THE ORDER DATED 23.08.2017 PASSED BY THE 2ND RESPONDENT, THE VILLAGE OFFICER, MUNDAKKAL VILLAGE, KOLLAM.
EXHIBIT P3	TRUE COPY OF THE SUBMISSION DATED 18.08.2017 GIVEN BY THE PETITIONER BEFORE THE SUB-REGISTRAR, ERAVIPURAM KOLLAM.

/TRUE COPY/

P.S. TO JUDGE

APPENDIX OF WP (C) 34002/2018

PETITIONER'S EXHIBITS:

EXHIBIT P1	COPY OF THE SALE CERTIFICATE DATED 8.8.2018 ISSUED BY THE 1ST RESPONDENT
EXHIBIT P2	COPY OF THE CERTIFICATE ISSUED BY THE 1ST RESPONDENT BANK DATED 14.09.2018
EXHIBIT P3	COPY OF THE PROHIBITORY ORDER DATED 29.1.2014 ISSUED BY THE 2ND RESPONDENT
EXHIBIT P4	COPY OF THE ATTACHMENT EFFECTED OVER THE PROPERTY IN RESPECT OF 6TH RESPONDENT
EXHIBIT P5	COPY OF THE EFFECTED OVER THE PROPERTY IN RESPECT OF 7TH RESPONDENT
EXHIBIT P6	COPY OF THE EFFECTED OVER THE PROPERTY IN RESPECT OF 8TH RESPONDENT

/TRUE COPY/

P.S. TO JUDGE

APPENDIX OF WP(C) 34380/2018

PETITIONER'S EXHIBITS:

EXHIBIT P1	COPY OF THE SALE CERTIFICATE DATED 21.3.2018 ISSUED BY THE PETITIONER.
EXHIBIT P2	COPY OF THE LETTER DATED 25.6.2018 ISSUED TO THE SUB REGISTRAR, KOLLAM.
EXHIBIT P3	COPY OF THE LETTER NO.D13-2368/14 4571/13 DATED 7.7.2018 ISSUED BY THE TAHSILDAR, RR, KOLLAM ALONG WITH ENGLISH TRANSLATION.

/TRUE COPY/

P.S. TO JUDGE

APPENDIX OF WP (C) 37543/2017**PETITIONER'S EXHIBITS:**

EXHIBIT P1	A COPY OF THE E-AUCTION SALE NOTICE DATED 10.7.2017.
EXHIBIT P2	A COPY OF THE AUCTION BID FORM SUBMITTED BY THE PETITIONER.
EXHIBIT P3	A COPY OF THE SALE CONFIRMATION LETTER DATED 26.7.2017.
EXHIBIT P4	A COPY OF THE SALE CERTIFICATE DATED 26.9.2017 ALONG WITH THE SCHEDULE.
EXHIBIT P5	A COPY OF THE PAY-IN-SLIP FOR REMITTING RS.696080/- DATED 20.10.2017 WITH SUB TREASURY OFFICE, KOLLAM.
EXHIBIT P6	A COPY OF THE PAY-IN-SLIP FOR REMITTING RS.174070/- DATED 21.10.2017 WITH SUB TREASURY OFFICE, KOLLAM.
EXHIBIT P7	A COPY OF THE SALE CERTIFICATE DATED 24.10.2017 ON THE NON JUDICIAL STAMP PAPER WORTH RS.696080/- PRESENTED FOR REGISTRATION.
EXHIBIT P8	A COPY OF THE LETTER DATED 26.10.2017 ISSUED BY THE 4TH RESPONDENT.
EXHIBIT P9	A COPY OF THE ORDER AFFIXED ON THE PROPERTY DATED 11.11.2017.
EXHIBIT P10	A COPY OF THE REGISTERED SALE DEED NO. 121/1/2018.

EXHIBIT P11 **A COPY OF THE APPLICATION DATED 19-6-2019 TO THE VILLAGE OFFICER, KILIKOLLUR, KOLLAM ALONG WITH ENGLISH TRANSLATION.**

EXHIBIT P12 **A COPY OF THE APPLICATION SUBMITTED TO THE 4TH RESPONDENT DATED 22-06-2019 ALONG WITH ENGLISH TRANSLATION.**

RESPONDENT'S EXHIBITS:

EXHIBIT R2 (a) **A TRUE COPY OF THE REPORT DATED NIL SUBMITTED BY THE ADVOCATE COMMISSIONER IN MC NO.106/2016 BEFORE THE KOLLAM CHIEF JUDICIAL MAGISTRATE COURT ALONG WITH ENGLISH TRANSLATION**

EXHIBIT R2 (b) **A TRUE COPY OF THE PRIVATE COMPLAINT DATED 06-03-2018 , NUMBERED AS CMP NO.914/2018 FILED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, 1B, KOLLAM ALONG WITH ENGLISH TRANSLATION**

/TRUE COPY/

P.S. TO JUDGE

APPENDIX OF WP(C) 37552/2017

PETITIONER'S EXHIBITS:

EXHIBIT P1	COPY OF THE SALE CERTIFICATE BY PAYMENT OF REQUISITE STAMP BY THE AUCTION PURCHASER.
EXHIBIT P2	COPY OF THE LETTER DATED 26.10.2017 ISSUED BY THE 2ND RESPONDENT.
EXHIBIT P3	COPY OF THE ORDER NO.D3-120/14 DATED 28.1.2014 ISSUED BY THE 3RD RESPONDENT.
EXHIBIT P4	TRUE COPY OF THE LETTER F CONFIRMATION OF CREATION OF EQUITABLE MORTGAGE

/TRUE COPY/

P.S. TO JUDGE