

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE GOPINATH.P.

TUESDAY, THE 12TH DAY OF MAY, 2020/22ND VAISAKHA, 1942

W.P(C) NO.9114 OF 2020

PETITIONER:-

GEORGE JOSEPH, AGED 60
S/O LATE P.V.LONAN, RESIDING AT
CC NO 27/2177,
PUTHENPURACKAL HOUSE, K-26, KRUPALAYAM
KADAVANTHRA.P.O, ERNAKULAM-682020

BY ADVS. DR. MATHEW A KUZHALANADAN (K/1609/2001)
SRI.K.R.ARUN KRISHNAN (K/617/2011)
SRI.SUDEEP ARAVIND PANICKER (K/517/2018)

RESPONDENTS:-

1. STATE BANK OF INDIA, COCHIN SHIPYARD BRANCH
PB NO.1655, M.G. ROAD, PERUMANOOR
ERNAKULAM-682015 REP BY ITS BRANCH MANAGER.
2. AUTHORIZED OFFICER, LOAN SECTION, STATE BANK OF INDIA
FIRST FLOOR, VANKADATHU TOWERS, NH BYE-PASS JUNCTION,
PADIVATTOR, ERNAKULAM-682025.
- *3.VILLAGE OFFICER, ELAMKULAM VILLAGE OFFICE,
GANDHI-NAGAR ROAD, KADAVANTHRA, ERNAKULAM - 682 020.
(*impleaded as per order dated 12.5.2020 in IA NO.1/2020)
R1-2 BY SRI.K.P.HARISH
R3 GOVERNMENT PLEADER

THIS WRIT PETITION HAVING COME UP FOR ADMISSION ON
12.05.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This writ petition is filed seeking a direction to the 2nd respondent to release documents mortgaged with the Bank by the petitioner's late father. It is stated that the petitioner has completely cleared the loan amount and that presently no amounts are due to the Bank and that the property in question devolved on him by virtue of a will executed by his late father.

2. The Learned Standing Counsel appearing for the State Bank of India would submit that the documents were deposited by the petitioner's late father to create a mortgage and the documents cannot be released to the petitioner unless the petitioner produces a legal heirship certificate. Learned Counsel for the petitioner points out that, petitioner has now obtained Ext.P11 relationship certificate from the concerned Village Officer

and this, together with Exts.P5 to P8 affidavits of the other legal heirs, is sufficient to release the documents, which are now in custody of the Bank, to the petitioner.

3. Learned Counsel for the petitioner would further submit that obtaining a legal heirship certificate is a time consuming and expensive affair and that the Bank may be directed to release the documents on the basis of Ext.P11 relationship certificate, which shows the name of all the legal heirs of the deceased father of the petitioner. He further states that all other legal heirs have executed affidavits, which are produced as Exts.P5 to P8 and Bank may be directed to act on the same.

4. In the totality of the facts and circumstances of the case, I am of the considered opinion that the Bank can accept original of Ext.P11 relationship certificate and the originals of Exts.P5 to P8 affidavits and release the documents mortgaged by the petitioner's late father to the petitioner. Petitioner shall also execute a simple

indemnity bond agreeing to indemnify the Bank, if any claim is raised by any third person at a later point of time. I therefore, direct the 2nd respondent to accept the originals of Exts.P5 to P8 and Ext.P11 and release the documents deposited by petitioner's late father, to the petitioner, on the petitioner executing an indemnity bond, in such a format as may be prescribed by the Bank. This shall be done, as expeditiously as possible, and at any rate, within two weeks from the date of receipt of a certified copy of this judgment.

The writ petition is disposed of accordingly.

jm

GOPINATH.P

JUDGE

APPENDIX

PETITIONERS EXTS:

EXT-P1 : A TRUE COPY OF REGISTERED WILL BEARING NO 566 OF 2011 DATED 14-12-2011 OF ERNAKULAM S.R.O

EXT-P2 : A TRUE COPY OF SALE DEED BEARING NO 5290/1999 OF ERNAKULAM SRO DATED 20-12-2004

EXT-P3 : A TRUE COPY OF EXCHANGE DEED EXECUTED BETWEEN P.V.LONAN AND P.SATHYARAJAN DATED 27-09-1999

EXT-P4 : A TRUE COPY OF LETTER DATED 15-01-2020 ISSUED BY THE 1ST RESPONDENT

EXT-P5 : A TRUE COPY OF AFFIDAVIT SWORN BY THE PETITIONER DATED 16-01-2020

EXT-P6 : A TRUE COPY OF AFFIDAVIT SWORN BY MRS. MERCY PAUL DATED 21-02-2020

EXT-P7 : A TRUE COPY OF AFFIDAVIT SWORN BY MR.JOHNSON DATED 22-02-2020

EXT-P8 : A TRUE COPY OF AFFIDAVIT SWORN BY MRS. MOLLY JOHN DATED 21-02-2020

EXT-P9 : A TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER TO THE RESPONDENTS DATED 17-03-2020

EXT-P10: TRUE COPY OF THE APPLICATION FOR COPY OF ENQUIRY REPORT SUBMITTED TO THE VILLAGE OFFICER, ELAMKULAM DATED 8.5.2020

EXT-P11:-TRUE COPY OF RELATIONSHIP CERTIFICATE ISSUED BY VILLAGE OFFICER, ELAMKULAM VILLAGE BEARING NO.892/2020 DATED 11.5.2020

