
(2016) 11 KL CK 0018
In the High Court Of Kerala
Case No : WP(C).No. 34928 of 2016

Meenakshy Amma

APPELLANT

Vs

State Bank of Mysore

RESPONDENT

Date of Decision : 02-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Securitisation and Reconstruction of Financial Assets and Enforcement of Security
Interest Act, 2002 (SARFAESI) — Section 14

Citation : (2017) 1 DRTC 819 : (2017) 2 KLT 17

Hon'ble Judges : Mr. A.M. Shaffique, J.

Bench : Single Bench

Advocate : Sri. R. Satish Kumar and Smt. T.J. Seema, Advocates, for the
Petitioner; Sri. Lal George, S.C, for the Respondents

Final Decision : Disposed Off

Judgement

Mr. A.M. Shaffique, J.—This writ petition has been filed by the wife of the mortgagor late Sri.Appukuttan Nair. She has approached this Court being threatened with eviction from the secured asset.

2. Learned counsel appearing for the respondent Bank submits that earlier the borrower has approached this Court by filing WP(C) No. 17700/2013 which was disposed of on 19/7/2013 granting the borrower time for remitting the amount in instalments. However, he did not comply with the direction and therefore Bank, left with no other option, attempted to effect sale of the property. Sale could not take place since there were no bidders. Later, the Bank moved an application under Section 14 of the SARFAESI Act and the Chief Judicial Magistrate has appointed an Advocate Commissioner to take possession of the secured asset. When the Advocate Commissioner visited the premises, it was noticed that the building was locked. Therefore, possession could not be taken. Later, it was understood that the mortgagor expired. Now the Bank had issued notice to the legal heirs and therefore, further coercive steps will be taken only after

completion of the steps for issuing notice to the legal heirs. Learned counsel for the petitioner submits that, so far, no notice had been received. She seeks for an instalment facility.

3. Right now, I do not think that there is any cause of action or any threat of eviction in so far as proceedings has to be taken by the Bank afresh on account of the death of Sri.Appukuttan Nair. If at all the petitioner has a cause of action in this matter, it shall always be open for her to approach the competent forum/ authority.

4. With the above observation, this writ petition is closed.