(2023) 07 KL CK 0126

In the High Court Of Kerala

Case No : Writ Petition (C) No. 12925 Of 2022

Mercy Antony APPELLANT

Vs

Calicut Co Operative Urban Bank Ltd RESPONDENT

Date of Decision : 14-07-2023

Acts Referred:

Citation : (2023) 07 KL CK 0126

Hon'ble Judges : Devan Ramachandran, J

Bench : Single Bench

Advocate : P.T.Mohankumar, Maneesha Joy, M.Manju

Final Decision : Disposed Of

Judgement

Devan Ramachandran, J

1. It is conceded that the 1st petitioner, along with her mother-in-law – Smt. Eliyamma Varghese (now deceased), took a loan from the respondent – Bank. Smt.Eliyamma died thereafter and the 2nd petitioner – who is her son and the husband of the 1st petitioner – asserts that he is the full legatee of the property – which was offered as security for the afore loan – on the strength of the Will executed by his mother, late Eliyamma.

2. The Bank, however, appears to be suspicious about the Will and they say that if they are to release the title documents of the property to the petitioners now, they may be subjected to unnecessary legal processes in future.

3. I have heard Sri.P.T.Mohankumar – learned counsel for the petitioners and Smt.M.Manju – learned counsel appearing for the respondents.

4. As I have already said above, the apprehension of the respondent-Bank is only that they may be drawn to unnecessary litigation. There may be some force in this, even though the Will in question is a registered one.

5. I am, therefore, of the firm view that the interest of the Bank must also be

protected; for which purpose, I issue the following directions:

a) This Writ Petition is ordered and the 2nd respondent – Branch Manager of the Bank is directed to handover the documents of the property offered by the original mortgagor to the petitioners on proper receipt, on condition that they will execute an indemnity bond in their favour, making it clear that any further suit by any person claiming under the Will or under late Eliyamma would be fully indemnified and covered by them.

b) The afore shall be done by the Bank as expeditiously as is possible, but not later than one week after the date on which the petitioners execute the indemnity bond as mentioned above.

