

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 18TH DAY OF MAY 2022 / 28TH VAISAKHA, 1944

WP(C) NO. 9687 OF 2022

PETITIONERS:

- 1 RATNAMANI GEORGE
AGED 65 YEARS, W/O GEORGE,
MOOKKEN HOUSE,
CARMEL PARK, MUNDUPALAM,
MISSION QUARTERS,
THRISSUR DISTRICT- 680001
- 2 NISHA GEORGE
AGED 38 YEARS, D/O GEORGE,
MOOKKEN HOUSE,
CARMEL PARK, MUNDUPALAM,
MISSION QUARTERS,
THRISSUR DISTRICT- 680001
- 3 VIKAS GEORGE
AGED 32 YEARS, S/O GEORGE,
MOOKKEN HOUSE,
CARMEL PARK, MUNDUPALAM,
MISSION QUARTERS,
THRISSUR DISTRICT- 680001.

BY ADVS.
SRI.M.R.VENUGOPAL
SMT.DHANYA P.ASHOKAN
SRI.S. MUHAMMAD ALIKHAN

RESPONDENT:

THE AUTHORIZED OFFICER,
CANARA BANK, A.R.M BRANCH,
2ND FLOOR, CANARA BANK BUILDING,
CHITTOOR ROAD,
ERNAKULAM DISTRICT, PIN-682016.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31.03.2022, THE COURT ON 18.05.2022 DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

W.P.(C) No.9687 of 2022

Dated this the 18th day of May, 2022

JUDGMENT

This writ petition is filed seeking a direction to the respondent to confirm the sale of the property auctioned by the petitioners after accepting the balance bid amount.

2. According to the petitioners, lured by a publication in the website of the respondent intimating the e-auction of an immovable property, a communication was sent by the petitioners on 18-11-2021 offering their bid. As per the terms of the auction notice, petitioners deposited 10% of the reserve price amounting to Rs.10,53,000/- on 06-12-2021 and thereafter the auction was held on 08-12-2021, pursuant to which the petitioners have been notified as the successful bidder having bid the property for Rs.1,06,25,000/-. In the meantime, petitioners were intimated by the respondent that since the Advocate for the respondent had advised not to confirm the sale till the disposal of W.P.(C) No. 27485 of 2021, which was filed by one Sri.E.K. Rajan, the sale could be confirmed only after the disposal of the said writ petition. Relying upon the judgment in **Bank of Baroda v. Karwa Trading Company and Another** [(2022) SCC Online SC 169], petitioners contend that the sale of the property ought to be

confirmed in their favour, after accepting the balance bid amount.

3. I have heard the learned counsel for the petitioners as well as the learned counsel for the respondent.

4. The petitioner in W.P.(C) No.27485 of 2021 was the borrower who had challenged the sale notice scheduling the sale of the secured interest on 08-12-2021. As per the judgment in W.P.(C) No.27485 of 2021 rendered today, this Court has found that the notice of sale was not properly served on the borrower, in terms of Rule 9(1) of the Security Interest Enforcement Rules, 2002. The notice of sale has thus been set aside. Since the notice of sale which resulted in the petitioners bidding for the property has been set aside, there is no sale in the eye of law. Since there is no valid sale under law, the relief sought for in the writ petition cannot be granted.

Accordingly, this writ petition is dismissed.

Sd/-

**BECHU KURIAN THOMAS
JUDGE**

vps

APPENDIX OF WP (C) 9687/2022

PETITIONER'S/S' EXHIBITS

Exhibit P1	TRUE COPY OF THE SALE NOTICE DATED 17/11/2021 PUBLISHED IN THE WEBSITE OF THE RESPONDENT
Exhibit P2	TRUE COPY OF NOTIFICATION PUBLISHED IN MATHRUBHUMI DAILY DATED 19/11/2021
Exhibit P3	TRUE COPY OF COMMUNICATION DATED 18/11/2021 SENT BY THE 3RD PETITIONER TO THE RESPONDENT
Exhibit P4	TRUE COPY OF RTGS TRANSACTION DATED 06/12/2021 EVIDENCING THE PAYMENT OF EMD AMOUNT
Exhibit P5	TRUE COPY OF E-AUCTION WINNER LIST DATED 08/12/2021 PUBLISHED IN THE WEBSITE OF THE RESPONDENT
Exhibit P6	TRUE COPY OF RTGS TRANSACTION DATED 08/12/2021 EVIDENCING THE PAYMENT OF RS. 16,03,250/-
Exhibit P7	TRUE COPY OF THE ACCEPTANCE LETTER DATED 08/12/2021 ISSUED BY THE RESPONDENT
Exhibit P8	TRUE COPY OF THE E-MAIL COMMUNICATION DATED 29/12/2021 ISSUED FROM THE OFFICE OF THE RESPONDENT
Exhibit P9	TRUE COPY OF THE ORDER DATED 02/12/2021 IN W.P. (C) 27485/2021
Exhibit P10	TRUE COPY OF THE ORDER DATED 07/12/2021 IN W.P. (C) NO. 27485/2021