

NON-REPORTABLE**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION****WRIT PETITION (C) NO.367 OF 2011****ST. MARY'S HOTEL (P) LTD. & ANR. ... PETITIONERS****VS.****KOTTAYAM DIST. COOP. BANK LTD. & ORS. ... RESPONDENTS****J U D G M E N T****ANIL R. DAVE, J.**

1. At the time of hearing of this petition, it has been submitted that Petitioner No.1 has already filed an appeal before the Debt Recovery Appellate Tribunal at Chennai (DRAT) and the said appeal, being AIR (SA) 230/2011, is pending. In the afore-stated appeal an interim order had been passed whereby the petitioner had been directed to pay Rs.65 lakhs (Rupees sixty five lakhs) by way of pre-deposit. At that stage, Writ Petition No.367/2011 had been filed in this Court. In pursuance of an interim order passed by this Court, a sum of Rs.2 crores (Rupees two Crores) has been paid by the petitioners to the respondent-Bank and the said amount has been kept in a separate account by the respondent-Bank.

2. As the petitioners have already paid more than Rs.65

lakhs (Rupees sixty five lakhs), we direct that the amount which has been deposited in a separate account by the respondent-Bank, shall be appropriated towards the dues of the petitioners.

3. *It would not be necessary for the petitioners to pay a further sum of Rs.65 lakhs as directed by the Tribunal. The Tribunal shall decide the appeal which is pending before it, preferably within three months from the date of receipt of a copy of this order. During the pendency of afore-stated appeal before the DRAT, no coercive steps shall be taken for recovery of the amount under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).*

4. The question of law with regard to the SARFAESI Act, 2002 and the Multi-State Cooperative Societies Act, 2002, is kept open.

5. The Registry shall give intimation of this order to the Tribunal.

6. The writ petition and I.A.12 (For directions) stand disposed of accordingly.

.....J.
[ANIL R. DAVE]

.....J.
[KURIAN JOSEPH]

New Delhi;
10th March, 2015.

SUPREME COURT OF INDIA



JUDGMENT