28.06.2023
SA/311/2023

Advocate Sarin Panicker learned counsel for the applicants is present. The learned counsel for the applicant contended that the e-auction of the secured asset scheduled to be held on 29.06.2023. In case of sale the SA would be rendered infructuous. Hence the sale scheduled to be held on 29.06.2023 may be stayed.

2. On careful consideration of the submission and material available on record the applicant is unable to show any prima facie illegality or irregularity in the securitization measures and proposed e-auction scheduled to be held on 29.06.2023. Further it transpires from the record that in WP(C).No.14315/2022 the Hon'ble High Court of Kerala directed the applicant to clear the overdue amount in 10 equal monthly installments starting from 25.05.2022 and also the applicant shall be liable to pay the applicable EMI with accrued interest, if any, continuously over and above the installments to pay off the overdue amount. Further the Hon'ble High Court of Kerala held that if there are two defaults committed in paying the installments at any time the petitioner will lose the benefit of the order and the respondent bank will be at liberty to proceed against the petitioner on the basis of the recovery proceedings already initiated. The applicant is unable to show that he complied with the direction passed by the Hon'ble High Court of Kerala. In absence of prima facie case and lack of bonafides I am not inclined to stay the sale scheduled to be held on 29.06.2023 without giving an opportunity of being heard to the other side.

3. Applicant is directed to issue summons/notice to the defendant/respondent in the main Securitisation Application as well as in the interim application by RPAD and file proof of service along with postal track report on the date fixed. List the matter on 08.07.2023 for filing Vakalath, written statement and counter to the IA.