

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

WP(C).No. 15799 of 2015 (Y)

PETITIONER: -

AVARAHAI, AGED 67 YEARS,
KATTUKANDAN HOUSE,
KULIKKILIYAD.P.O,
KOTTAPPURAM,
PALAKKAD DISTRICT.

BY ADV.SRI.C.K.RAMAKRISHNAN

RESPONDENTS: -

1. THE MANAGER,
DISTRICT CO-OPERATIVE BANK LTD,
H.O., PALAKKAD,
PIN-670001.
2. THE DEPUTY REGISTRAR/SPECIAL ARBITRATOR,
PALAKKAD DISTRICT CO-OPERATIVE BANK LTD,
PALAKKAD-670001.
3. THE CO-OPERATIVE JOINT DIRECTOR/CONCURRENT AUDITOR,
PALAKKAD DISTRICT CO-OPERATIVE BANK LTD,
PALAKKAD-670001.

BY ADV.SRI.M.SASINDRAN
BY Sr. GOVERNMENT PLEADER SRI. VINCENT K.C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
29-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 15799 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS : -

- EXT.P1 : TRUE COPY OF THE LOAN PASS BOOK OF THE PETITIONER WITH
ENGLISH TRANSLATION.
- EXT.P2 : TRUE COPY OF THE VARIOUS RECEIPTS.
- EXT.P3 : TRUE COPY OF THE PLAINT WITH ENGLISH TRANSLATION.
- EXT.P4 : TRUE COPY OF THE AWARD DATED 23.01.2015.
- EXT.P5 : TRUE COPY OF THE NOTICE DATED 30.04.2015 WITH ENGLISH
TRANSLATION.
- EXT.P6 : TRUE COPY OF THE OBJECTION FILED DATED 11.05.2015 WITH
ENGLISH TRANSLATION.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 15799 of 2015

Dated this the 29th day of May, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondents, as well as the learned Government Pleader, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. The petitioner, who availed himself of a loan of Rs.5,00,000/- from the respondent Bank on 26.03.2011 to be repaid in 60 months, committed default. Consequently, the respondent Bank initiated recovery proceedings, which resulted in Exhibit P4 award. Aggrieved thereby, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner has submitted that in response to Exhibit P5 communication issued by the third respondent, the petitioner submitted Exhibit P6 reply contesting the quantum of outstanding amount in petitioner's loan account and also his liability to pay the

same. He has also submitted that though the petitioner has paid various amounts at different points of time as part of repayment of loan to the respondent Bank, those payments, according to the learned counsel, have not been duly given credit. In essence, the learned counsel has submitted that the petitioner has been contesting the correctness of the award. Eventually, the learned counsel has contended that the respondent authorities ought to have responded to petitioner's Exhibit P6 communication and desisted from any efforts to recover further amounts.

4. The learned counsel for the respondent Bank, on his part, has contended that the third respondent issued Exhibit P5 notice as part of audit inspection. He has further contended that Exhibit P6, the petitioner's reply thereof, is only in response to the said communication. Whether the petitioner affirms or disputes the quantification of loan, as has been reflected in Exhibit P5 notice, Exhibit P4 award still remains undisturbed. According to him, Exhibit P5 is only a technical compliance.

5. Indisputably, the petitioner suffered Exhibit P4 award, but has not filed any statutory appeal against the

same. I am of the considered opinion that, in terms of Section 82 of the Kerala Co-operative Societies Act, the petitioner has not only an alternative, but also an efficacious remedy.

6. Indeed, the petitioner did submit his Exhibit P6 reply to Exhibit P5 notice. As has been rightly contended by the learned counsel for the respondent Bank, neither Exhibit P5 notice nor Exhibit P6 reply on the part of the petitioner goes to the extent of either modifying or putting in peril Exhibit P4 award, which is yet to be judicially challenged.

In the facts and circumstances, if the petitioner is so advised, he is at liberty to explore the statutory remedial measures to lay appropriate challenge, if it is sustainable, against Exhibit P4 award. Making it clear that there is no disposition on the merits of the matter, this Court dismisses the writ petition. No order as to costs.

DAMA SESHADRI NAIDU
JUDGE

DMR/-