

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

RPNo. 526 of 2015 (Y) IN WP(C).19397/2011

**AGAINST THE ORDER/JUDGMENT IN WP(C) 19397/2011 of HIGH COURT OF KERALA
DATED 27-02-2015**

REVIEW PETITIONER/RESPONDENT NO.3 IN WRIT PETITION:

**THE MANAGING DIRECTOR,
KERALA STATE CO-OPERATIVE HOUSING FEDERATION, KALOOR
KOCHI-682018.**

BY ADV. SRI.BINU MATHEW

RESPONDENTS/WRIT PETITIONER & RESPONDENTS 1,2 & 4 IN WRIT PETITION:

- 1. K.S RAJAGOPAL,
RAHUL BHAVAN, CHITTADI.P.O, PIN-686524
MUNDAKKAYAM, KOTTAYAM DISTRICT.**
- 2. THE KANJIRAPPALLY HOUSING CO-OPERATIVE SOCIETY LTD NO.K.372,
REPRESENTED BY ITS SECRETARY, KANJIRAPPALLY
KOTTAYAM DISTRICT, PIN-686004.**
- 3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES(GENERAL),
KOTTAYAM, PIN-686002.**
- 4. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
TRIVANDRUM-01.**

**BY GOVERNMENT PLEADER SRI.C.K.JAYAKUMAR
BY SRI.K.P.JUSTINE (KARIPAT)
BY SRI.LIJI.J.VADAKEDOM**

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 7-08-2015,
THE COURT ON 29/9/2015 PASSED THE FOLLOWING:**

RP NO.526/2015

APPENDIX

REVIEW PETITIONER'S EXHIBITS

EXT.R3(F) : TRUE COPY OF THE LOAN APPLICATION WITH THE
DECLARATION OF THE BORROWER (SRI.K.C.JOHN) DATED
22.3.1983.

//True Copy//

PS to Judge

Rp

A.M. SHAFFIQUE, J.

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R.P.No.526/15 in WP(C) No.19397/2011,

R.P.No.527/15 in WP(C) No.5187/2011

&

R.P.No.644/15 in WP(C) No.30216/2011

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Dated this, the 29th day of September, 2015

O R D E R

These three review petitions are filed against the common judgment by which a batch of writ petitions were disposed of directing the Kerala State Housing Federation Ltd to return the title deeds of the petitioners to the respective Primary Co-operative Societies or through the administrators and on confirmation that the petitioners have paid the entire amount due to the Primary Co-operative Societies.

2. The Kerala State Co-operative Housing Federation Ltd has filed these review petitions *inter alia* contending that they are entitled to withhold the title deeds of the loanees until the entire repayment is effected by the respective Co-operative Banks. It is stated that the judgment is the outcome of an error apparent on the face of record as the position of law is covered by judgment in ***John v. Liquidator*** [2006 (1) KLT 11 (FB.) It is also contended

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-:2:-

that the writ petitions were not maintainable as the subject matter involved related to matters relating to contract between the parties which cannot be adjudicated by this Court in exercise of power under Article 226 of the Constitution of India.

3. The short question to be considered in these review petitions is whether the judgment is required to be reviewed in the light of the decision in **John's case** (supra) and whether this Court ought to have interfered in the contractual matters. In fact, in the judgment which is sought to be reviewed, I have referred to **John's case** (supra) and had observed that no material had been produced before this Court to indicate that a declaration was given by the loanees permitting their title deeds to be given as security for the amount advanced by the Apex society. Learned counsel for the review petitioners, in the review petitions relies upon certain annexures to indicate that such a declaration has been actually given by the loanees. A perusal of the documents produced does not indicate that any such declaration had been given by the loanees permitting their documents to be given as mortgage to the Apex society and that it will remain as a security

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-:3:-

until the entire amount is paid by the primary society to the Apex society. Therefore, the cases on hand are factually different from the facts as available in **John's case** (supra). In that view of the matter, I do not think that there is any error apparent on the face of record to review the judgment on that ground.

4. Another contention urged is regarding the jurisdiction of this Court to interfere with contractual matters. True that the matters arise under the realm of private law but when an Apex society acts in an arbitrary fashion by retaining the documents of loanees who had already repaid their amounts to the primary society, I do not think that the exercise of jurisdiction by this Court is in any way illegal or irregular warranting review of the judgment.

On these findings, the review petitions stand dismissed.

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

//True Copy//

PS to Judge