

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WP(C).No. 3688 of 2007 (L)

PETITIONERS:

1. **BABY THOMAS, AGED 54 YEARS,
S/O.THOMAS, VATTAKATTU HOUSE, KUNJITHANNI P.O.
IDUKKI.**
2. **THANKAPPAN, AGED 65 YEARS,
S/O.KUNJU, KATTAKAYATHU HOUSE, ELLACKAL P.O.
DEVIKULAM TALUK, IDUKKI DISTRICT.**
3. **K.G.PRAKASH, AGED 44 YEARS,
S/O.GOPALA PILLAI, KOCHAMPARAMBIL HOUSE
KUNJITHANNI P.O., IDUKKI DISTRICT.**
4. **NARAYANI, AGED 88 YEARS,
W/O.KUNJU, KATTAKAYATHU HOUSE, ELLACKAL P.O.
IDUKKI DISTRICT.**
5. **MATHAI JOSEPH, AGED 76 YEARS,
S/O.MATHAI, MUNDAKAPADAVIL HOUSE, ELLACKAL P.O.
POTHUPARA.**
6. **SHOBANA KUMARI, AGED 40 YEARS,
D/O.GOPALA PILLAI, KOCHAMPARAMBIL, KUNJITHANNI P.O.
IDUKKI DISTRICT.**
7. **V.T.JOHNY, AGED 51 YEARS,
S/O.THOMAS, VATTAKATTU HOUSE, CHITTIRAPURAM P.O.
C.T.CITY, KUNJITHANNI.**

**BY ADVS.SRI.A.X.VARGHESE
SMT.M.R.JAYALATHA
SRI.A.V.JOJO**

RESPONDENTS:

1. **SECRETARY, MINISTRY OF AGRICULTURE,
UNION OF INDIA, NEW DELHI.**
2. **SECRETARY, MINISTRY OF AGRICULTURE
AND CO-OPERATION, SECRETARIATE, THIRUVANANTHAPURAM.**
3. **REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM.**

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4. ELLACKAL SERVICE CO-OPERATIVE
BANK LTD.NO.K.284, ELLACKAL P.O., IDUKKI DISTRICT
REP. BY ITS SECRETARY.

R,R1 BY ADV. SRI.S.ABILASH, CGC
R,R4 BY ADV. SRI.RAINGE KODUVATH
R,R4 BY ADV. SRI.JOY C. PAUL
R BY SRI.JOHN VARGHESE, ASSISTANT SG

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1: PHOTOCOPY OF THE DEMAND NOTICED DATED 30/12/06 ISSUED TO
THE 1ST PETITIONER**
- EXT.P2: PHOTOCOPY OF THE DEMAND NOTICE DATED 30/12/06 ISSUED TO
THE 2ND PETITIONER .**
- EXT.P3: PHOTOCOPY OF THE DEMAND NOTICE DATED 30/12/2006 ISSUED TO
THE 3RD PETITIONER**
- EXT.P4: PHOTOCOPY OF THE DEMAND NOTICE DATED 30.12.2006 ISSUED TO
THE 4TH PETITIONER**
- EXT.P5: PHOTOCOPY OF THE DEMAND NOTICE DTD 30/12/2006 ISSUED TO
THE 6TH PETITIONER**
- EXT.P6:- PHOTOCOPY OF THE DEMAND NOTICE DATED 30/12/06 ISSUED TO
THE 6TH PETITIONER**
- EXT.P7: PHOTOCOPY OF THE DEMAND NOTICE DATED 30/12/2006 ISSUED TO
THE 7TH PETITIONER**

RESPONDENTS' EXHIBITS

- R4: TRUE COPY OF THE SCHEME NAMELY AGRICULTURAL DEBT WAIVER
AND DEBT RELIEF SCHEME 2008**
- R4(A): TRUE COPY OF the ORDER DATED 11.03.2005 IN O.P.1480/95**

// TRUE COPY //

PA TO JUDGE

K.SURENDRA MOHAN, J.

W.P.(C) No.3688 of 2007-L

Dated this the 29th day of January, 2015

J U D G M E N T

The petitioners, persons who have availed short term loans and medium term loans from the 4th respondent co-operative society have filed this writ petition seeking the following reliefs:-

- i) Issue a Writ of Certiorari any other appropriate writ, order or direction to quash Exhibit P1 to P-7 notices issued to the petitioners.
- ii) Issue a Writ of Mandamus directing the respondents to write off the entire agricultural loan of below 10,000/- prior to 1990 unconditionally.
- iii) Such other reliefs that this Hon'ble Court deems fit and proper.

2. As per Exhibit P1 to P7 notices, the petitioners have been directed to pay back the amounts availed as loan by them, failing which, coercive proceedings would be initiated. According to the counsel for the petitioners, they are entitled to a total waiver of the amounts demanded in view of Exhibit P8 Debt Relief Scheme. Therefore, they

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seek the issue of appropriate directions for the said purpose.

3. A counter affidavit has been filed by the 4th respondent. It has been stated in the counter affidavit that, the petitioners along with certain others had earlier approached this Court by filing O.P.No.1480 of 1995. Exhibit R4(a) is the judgment in the said writ petition.

4. According to the learned Government Pleader, the petitioners are bound by the directions in Exhibit R4(a). Therefore, they are not entitled to seek complete waiver of the debt.

5. Heard. It is not dispute that the petitioners had earlier approached this Court along with some others. The said writ petition, O.P.No.1480 of 1995 was disposed of by Exhibit R4(a) judgment. Paragraphs 4 and 5 of the judgment reads as follows:

4. Having regard to the fact that the above loans had been availed by the petitioners several years back and the Original Petition has also been pending for, nearly ten years, there will be a direction to the fifth respondent -

Service Co-operative Bank to recover the arrears from the petitioners with simple interest at the rate of 9% per annum and to grant them at least three instalments to clear the arrears, without future interest to clear the arrears.

5. Statements of liability will be prepared and supplied to the petitioners by the 5th respondent, for payment in terms of the settlement. Proceedings shall be initiated against the petitioners, if arrears are not paid within the time granted by the fifth respondent.

Original Petition is disposed of as above.

It is clear from the above that, the petitioners have been granted the benefit of reduction in interest and a facility to pay back the entire amount in three instalments. The amount of loans involved are less than ₹5000/-. This writ petition was admitted on 08.10.2007. No interim order was granted by this Court. Therefore, in all probability the amount would have been repaid by the loanee. It is for the petitioners to repay the amount in terms of the directions contained in Exhibit R4(a) for the reason that, they are bound by the said judgment.

For the above reasons, I do not find any grounds to

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grant the reliefs sought for in this writ petition. This writ petition is therefore dismissed.

Sd/-
K.SURENDRA MOHAN,
JUDGE

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