

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WA.No. 142 of 2015 () IN WP(C).29623/2012

**AGAINST THE ORDER/JUDGMENT IN WP(C) 29623/2012 of HIGH COURT OF KERALA
DATED 17-12-2014**

APPELLANT(S)/PETITIONERS:

- 1. N.A.AUGUSTHY AGED 77 YEARS
S/O.AUGUSTINE, NALLAMTHADATHIL
VANCHIMALA P.O KOTTAYAM DISTRICT, PIN - 686 508.**
- 2. N.A.AUGUSTINE AGED 38 YEARS
S/O.AUGUSTHY, NALLAMTHADATHIL
VANCHIMALA P.OKOTTAYAM DISTRICT, PIN - 686 508.**

**BY ADVS.SRI.G.HARIHARAN
SRI.PRAVEEN.H.**

RESPONDENT(S)/RESPONDENTS:

- 1. GRIEVANCE REDRESSAL OFFICER,
ELAMGULAM SERVICE CO-OPERATIVE BANK LTD. NO.3576
KOORALI, KOTTAYAM DISTRICT, PIN - 686 522.**
- 2. M/S.ELAMGULAM SERVICE CO-OPERATIVE BANK LTD. NO.3576
KOORALI, KOTTAYAM DISTRICT
PIN - 686 522 REPRESENTED BY ITS SECRETARY.**
- 3. ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
KANJIRAPPALLY - 686 507.**
- 4. UNION OF INDIA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
MINISTRY OF FINANCE, SANSAD MARG, NEW DELHI -110001.**

**R4 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 BY SRI.P.GOPAL, SC
BY SR GOVERNMENT PLEADER SRI.M.K.ABOOBACKER**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 02-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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Writ Appeal No. 142 of 2015
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Dated this the 2nd day of February, 2015

J U D G M E N T

Antony Dominic, J.

Appellants had filed WP(C) No.29623/12 claiming the benefit of the Agricultural Debt Waiver and Debt Relief Scheme, 2008. Though the learned single Judge declined their eligibility for the benefit of the scheme, in the judgment under appeal, an instalment facility was granted. Unsatisfied with the relief that is obtained, this writ appeal is filed.

2. We heard the learned counsel for the appellants, learned counsel appearing for the 2nd respondent and considered the submissions made.

3. Facts appear to be that in so far as the first appellant is concerned, he had availed of a loan under the Kissan Credit Card scheme on 01/2/2003. This was for an amount of ₹2,00,000/- and the loan period was three years. He closed the transaction by repayment on 30/3/2007. Thereafter, on the same day, he had obtained another loan of ₹2,00,000/- under the very same scheme, which also was for a period of three years. In so far as the second appellant is

concerned, he availed a loan of ₹1,00,000/- under the scheme mentioned above on 29/3/2007 and this loan also had a repayment period of three years.

4. A copy of the loan agreement entered into by the first appellant made available by the learned counsel for the Bank shows that in this agreement entered into on the 30th of March, 2007, the period of the loan has been shown as 36 months and the loanee is obliged to regularise the amounts that are due once in a year. The same terms and conditions were applicable in so far as the second appellant is also concerned. This therefore shows that the period of the second loan availed by the first appellant and the period of the loan availed by the second appellant expired only in 2010. Their obligation to regularise the transaction also arose only on the expiry of 29/3/2008 and 28/3/2008 respectively. A copy of the scheme that is made available to us shows that under the scheme, the eligibility in so far as the loans in question are concerned, is only the loans that were disbursed up to 31/3/2007 and were in default as on 31/12/2007 and the amount to be waived is the amount which is remaining outstanding as on 29/2/2008.

5. From the facts that we have narrated, it is evident that, as on 31/12/2007 or as on 29/2/2008, nothing was in default or remaining unpaid. This, therefore, means that the appellants were not eligible for the benefit of the Agricultural Debt Waiver and Debt Relief Scheme, 2008. If that be so, the learned single Judge was fully justified in declining relief.

6. Writ appeal is dismissed.

At this stage, learned counsel for the appellants submits that a new scheme has been introduced by the Government of Kerala by Circular No.5/15. In view of the submission so made, we clarify that nothing contained in this judgment will be prejudicial to the appellants in claiming the benefit of the new scheme, if they are otherwise eligible for the same.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge