

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WA.No. 161 of 2015 () IN WP(C).30769/2008

APPELLANT(S)/PETITIONER:

**A.KAYINHI, AGED 53 YEARS,
S/O.ABDUL RAHIMAN HAJEE, ARIMALA HOUSE
P.O.BADAJE, KASARAGOD DIST.**

BY ADV. SRI.P.K.NIJOY

RESPONDENT(S)/RESPONDENTS:

- 1. JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES, KASARAGOD 671 121.**
- 2. STATE OF KERALA REPRESENTED BY ITS
SECRETARY TO GOVT., DEPARTMENT OF CO-OPERATIVE, SOCIETIES
THIRUVANANTHAPURAM - 695 001**
- 3. MANJESHWAR SERVICE CO-OPERATIVE BANK,
REPRESENTED BY ITS SECRETARY, P.O.MANJESHWAR
KASARAGOD DISTRICT 671 125.**

**GOVERNMENT PLEADER SRI.M.K.ABOOBACKER
R3 BY SRI.KODOTH SREEDHARAN**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 27-01-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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W.A.No. 161 of 2015

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Dated this the 27th day of January, 2015

J U D G M E N T

ANTONY DOMINIC, J.:

The claim of the appellant for the benefit of Agricultural Debt Waiver and Debt Relief Scheme– 2008 was declined by the learned Single Judge in the judgment under appeal. It is therefore that this appeal is filed.

2. We heard the learned counsel for the appellant, the learned Government Pleader appearing for respondents 1 and 2 and Sri.Kodoth Sreedharan, learned counsel appearing for the 3rd respondent.

3. The only controversy that was debated before us was whether the loan granted to the appellant was an agricultural loan as claimed or not. According to the counsel, as is evident from Ext.P4 extract of the ledger, the loan was granted for agricultural purpose. It is therefore contended that, as is evident from Ext.P1, scheme, 2008, the appellant was eligible for the benefit of the scheme. However, in Ext.P–4 itself it is stated that the loan in

question is 'Medium term non-agriculture loans (mortgage)". Secondly, in the counter affidavit filed by the bank, it is also specifically claimed that the loan in question is not an agricultural loan, but a non-agricultural loan. This assertion in the affidavit is not disputed either by a reply affidavit or otherwise. In such circumstances, on the materials produced, we are unable to conclude that the loan in question was an agricultural loan as claimed by the appellant, entitling him for the benefit of the scheme. The appeal therefore fails and is dismissed.

4. However, taking note of the filing of this appeal and that the time for payment in instalments allowed by the learned Judge has expired, we direct that the time schedule for the instalment facility granted by the learned Single Judge will start from 18th of February, 2015 and that the remaining instalments shall be paid on or before 18th of every succeeding month. Subject to the above modification, the judgment of the learned Single Judge is confirmed.

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Sd/-
ANTONY DOMINIC, JUDGE
Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge

W.A.161/15

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