IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WA.No. 395 of 2015 () IN WP(C).18005/2014

AGAINST THE ORDER/JUDGMENT IN WP(C) 18005/2014 of HIGH COURT OF KERALA DATED 30-10-2014

APPELLANT(S):

SREEKUMARI S.
W/O.LATE RADHAKRISHNA PILLAI, SRI VIHAR, CUTCHERY WARD
KOLLAM-691013.

BY ADV. SRI.B.MOHANLAL

RESPONDENT(S):
----

1. **THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,**
   COLLECTORATE, CUTCHERY P.O., KOLLAM-691013.

2. **THE KOLLAM DISTRICT CO-OPERATIVE BANK LIMITED**
   CHINNAKKADA, KOLLAM 691001
   REPRESENTED BY ITS GENERAL MANAGER

3. **THE MANAGER**
   KOLLAM DISTRICT CO-OPERATIVE BANK LIMITED
   CHAMAKKADA BRANCH, KOLLAM-691001.

4. **THE SPECIAL SALE OFFICER**
   (INSPECTOR OF CO-OPERATIVE SOCIETIES)
   KOLLAM DISTRICT CO-OPERATIVE BANK LIMITED
   CHINNAKKADA, KOLLAM-691001.

BY SR GOVERNMENT PLEADER SRI.M.K.ABOOBACKER
BY SRI.T.R.HARIKUMAR, SC, KOLLAM DISTRICT COOPERATIVE BANK

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WA NO.395/15

APPENDIX

APPELLANT'S EXHIBITS

ANNEXURE A1: TRUE COPY OF THE COMMUNICATION DT 24/11/14 ISSUED BY THE 2ND RESPONDENT TO THE APPELLANT.

ANNEXURE A2: TRUE COPY OF THE RECEIPTS ISSUED BY THE 2ND RESPONDENT TO THE APPELLANT.

ANNEXURE A3: TRUE COPY OF THE RECEIPT ISSUED BY THE 4TH RESPONDENT TO THE APPELLANT.

ANNEXURE A4: TRUE COPY OF THE CIRCULAR DATED 1/1/15 ISSUED BY THE REGISTRAR OF CO-OPERATIVE SOCIEITES TO THE 2ND RESPONDENT BANK.

ANNEXURE A5: TRUE COPY OF THE ORDER NO.REC-6/2014-2015 DATED 29/1/15 ISSUED BY THE 2ND RESPONDENT TO THE APPELLANT.

//True Copy//

PA to Judge

Rp

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
===================================
Writ Appeal No. 395 of 2015
======================

Dated this the 9th day of March, 2015

J U D G M E N T

Antony Dominic, J.

The appellant filed WP(C) No.18005/14 challenging the recovery proceedings initiated by the respondent Bank on the strength of the award obtained by them in ARC No.644/05. The learned single Judge by the impugned judgment disposed of the writ petition allowing the appellant an instalment facility and also given liberty to apply for the benefit of the One Time Settlement that may be introduced by the Bank.

2. In this appeal, the main grievance of the appellant is that the instalment payments made by him pursuant to the interim orders passed by the learned single Judge on 25/7/14, 1/12/14, 1/01/15 and 2/02/15 evidenced by Annexure A2 series of receipts should be given credit to the amount due from her as indicated in Annexure A5 and she should be allowed to settle the liability by the paying the balance amount.

3. However, instructions obtained by the learned standing counsel for the respondent Bank show that Annexure A4 is a One

Time Settlement Scheme that was introduced by the Bank and was in force for the period from 01/1/15 to 15/2/15. According to the learned counsel, the benefit of Annexure A4 was given to the appellant and she was issued Annexure A5 giving waiver of ₹1,62,736/- and demanding balance amount of ₹6,57,407/-, which was ordered to be paid on or before 15/2/15. Learned counsel says that the appellant did not make any payment within the period and that the scheme has expired on 15/2/15. It is also stated that subsequently, the Registrar of Co-operative Societies has introduced a scheme by name Ashwas 2015 by Circular No.5/15 and that the said scheme is in vogue till 31/3/15. According to the learned standing counsel, the appellant has not applied for the benefit of the scheme so far.

4. In so far as the deductions from the liability as indicated in Annexure A5 claimed by the appellant is concerned, from the particulars that are disclosed by the learned standing counsel for the Bank, it is obvious that the scheme has expired on 15/2/15 and that the appellant did not discharge the liability during the validity period of the scheme. In such circumstances, this Court cannot now direct the Bank to extend to the appellant

any benefit under the expired scheme. If that be so, the appellant cannot now require this Court to order the Bank to give credit to the payments already made by her in instalments.

5. In so far as the benefit of Ashwas Scheme, 2015 which is now claimed by the learned counsel for the appellant is concerned, submissions made by the Bank show that the appellant has not even applied for the benefit of the above scheme. In any case, since the scheme is in vogue till 31/3/15, we leave it open to the appellant to claim the benefit of the above scheme and if such an application is filed, it shall be duly dealt with in accordance with law.

WA is dismissed.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
ALEXANDER THOMAS
JUDGE

Rp

//True Copy//

PA to Judge