IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WA.No.489 of 2015 IN WP(C).30400/2014
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AGAINST THE JUDGMENT IN WP(C) 30400/2014 of HIGH COURT OF KERALA
DATED 15-12-2014

APPELLANT(S)/PETITIONER:
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L.V.SANTHOSH KUMAR, AGED 46 YEARS
S/O.LEKSHMANAN NADAR, SREE RETNAM
PAYATTUVILA, PAYATTUVILA P.O., BALARAMAPURAM (VIA)
THIRUVANANTHAPURAM - 695 501.

BY ADVS.SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.
SRI.GOVIND PADMANAABHAN
SRI.AJIT G.ANJARLEKAR

RESPONDENT(S)/RESPONDENTS:
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1. THE REGISTRAR OF CO-OPERATIVE SOCIETIES
STATE OF KERALA
OFFICE OF THE REGISTRAR OFCO-OPERATIVE SOCIETIES
STATUE, THIRUVANANTHAPURAM - 695 001.

2. KIDARAKUZHI SERVICE CO-OPERATIVE BANK LTD.NO.2516
REPRESENTED BY ITS SECRETARY
KIDARAKUZHI P.O.THIRUVANANTHAPURAM - 695 521.

3. THE SECRETARY
KIDARAKUZHI SERVICE CO-OPERATIVE BANK LTD.NO.2516
KIDARAKUZHI P.O., THIRUVANANTHAPURAM - 695 521.

4. THE PRINCIPAL
NEW HIGHER SECONDARY SCHOOL, NELLIMOODU
NELLIMOODU P.O., THIRUVANANTHAPURAM -695 524.

R1 BY SENIOR GOVT PLEADER SRI.M.K.ABOOBACKER
R2 & R3 BY SRI.G.SUDHEER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**ANTONY DOMINIC & ALEXANDER THOMAS, JJ.**

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**Dated this the 18th day of March, 2015.**

**J U D G M E N T**

Antony Dominic, J.

The appellant filed W.P.(C).No.30400/2014 claiming the benefit of the Agricultural Debt Waiver and Debt Relief Scheme, 2008, which benefit was declined to him on the ground that his liability to the bank was not covered by the beneficial provisions of the said scheme. The learned Single Judge having declined to give the relief, this appeal is filed.

2. When the appeal came up for admission, the main contention raised by the counsel for the appellant was that the benefit of the scheme was denied to him on the ground that the facility availed by him was renewed and that therefore his liability is outside provisions of the scheme and according to him there was no such renewal. Counsel also referred to Ext.P2 order passed by the State Farmers Debt Relief Commission which had ordered an enquiry into the allegations raised by the appellant. At that stage, this Court passed order dated 9.3.2015 requiring the

learned Government Pleader to obtain instructions from the Registrar of Co-operative Societies on the outcome of the enquiry, if any, conducted pursuant to Ext.P2 order.

3. Today, when the matter was taken up, the learned Government Pleader produced the report obtained from the Additional Registrar of Co-operative Societies (Credit), which reads as follows:

> *"It is submitted that the Kerala State Farmers Debt Relief Commission has directed this respondent to take appropriate steps to redress the grievances of the applicants viz L.V.Santhosh Kumar and 3 others, vide letter No.P.A.6 4075, 4076/13/KSFDRC dated 12.9.2013. The final order received from the commission was sent to the Assistant Registrar (General), Neyyattinkara for enquiry and report. The Assistant Registrar of Co-operative Societies has submitted the report vide letter No.V.1775/2014 dated 18.11.2014. As per the enquiry report, it is submitted that the petitioner has availed an agricultural loan of Rs.50,000/- on 27.7.2004 (Loan No.KCC.46/04-05) and renewed the same on 11.7.2005 for Rs.49,000/-, on 28.12.2005 for Rs.50,000 and on 20.2.2008 for Rs.50,000/- (copies of the documents enclosed). The petitioner has not paid the principal and the interest till date. As per the Agricultural Debt Waiver and Debt Relief Scheme 2008 declared by the Central Government, the agricultural loan which were issued from 1.4.1997 to 31.3.2007, and stood overdue as on 31.12.2007 and outstanding on 28.2.2008 are eligible for ADWDR Scheme (Central Debt Waiver Scheme). As the loan taken by the petitioner was not in overdue as on 28.2.2008, since he revived the loan on 20.2.2008 and the loan stands as fresh. The scheme intended to write off the overdue loans only and the loan of the petitioner was not overdue on 28.2.2008 and hence the loan of the petitioner is not eligible for write off under the central debt waiver scheme."*

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4. A reading of the above report indicate that the case of the appellant that he did not renew the loan as claimed by the respondent has been found to be incorrect.

5. Even today, the appellant reiterated the submission that the facility availed was not renewed as contended. However, in view of the report from the Additional Registrar of Co-operative Societies, we cannot accept this contention. However, we clarify that irrespective of the report, remedy, if any, available to the appellant, in the matter before the appropriate forum, will not be foreclosed.

4. However, having regard to the pendency of this appeal, we are inclined to reinstate the instalment facility granted by the learned Single Judge to the appellant. We allow the appellant to repay the entire amount due to the respondent-bank in 15 monthly instalments. The first instalment shall be paid on or before 1.4.2015 and the subsequent instalments shall be paid on or before the 1st of every succeeding month. Subject to payment as above, coercive steps, if any, initiated against the appellant shall

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stand deferred and if default is committed in making payment as aforesaid, the respondent-bank will be free to proceed with the recovery action.

The writ appeal is disposed of as above.

Sd/-
**ANTONY DOMINIC,**
**Judge.**

**Sd/-**
**ALEXANDER THOMAS,**
**Judge.**

Bkn/-

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P.A to Judge.