

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

WA.No. 1858 of 2014 () IN WP(C).30775/2013

**AGAINST THE JUDGMENT IN WP(C) 30775/2013 of HIGH COURT OF KERALA
DATED 29-10-2014**

APPELLANT/PETITIONER IN WPC:

**SARACHANDRAKUMAR R.,
SECTION OFFICER, LAW DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

**BY ADVS.SMT.SUMATHY DANDAPANI (SR.)
SRI.MILLU DANDAPANI
SRI.PREMCHAND R.NAIR**

RESPONDENTS/RESPONDENTS IN WPC:

- 1. THE SECRETARY, P.W.D. IRRIGATION
L.S.G.D. STAFF CO-OPERATIVE SOCIETY LTD.NO.T-638,
PUBLIC OFFICE BUILDING, THIRUVANANTHAPURAM-695 033**
- 2. THE SUB TREASURY OFFICER
SECRETARIAT SUB TREASURY
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**

**R1 BY SRI.PIRAPPANCODE V.S.SUDHEER
BY SR. GOVERNMENT PLEADER, SRI.M.K.ABOOBACKER.**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
09-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

W.ANo.1858 OF 2014

Dated this the 9th day of January, 2015

JUDGMENT

Antony Dominic, J.

This writ appeal is filed by the petitioner in Writ Petition No.30775/2013, who is aggrieved by the judgment of the learned Single Judge where his prayer for the benefit of Ext.P3 was declined and he was given an instalment facility to liquidate the liability due to the respondent Society.

2. We heard the Senior Counsel for the appellant, the learned counsel appearing for the first respondent and the learned Government Pleader appearing for the second respondent.

3. From the pleadings it would appear that in 2001, the appellant who was then working as a U.D.Clerk in the Irrigation Department availed loan of Rs.50,000/- from the first respondent. Obviously, he had committed default and while matters stood thus the Registrar of Co-operative Societies issued Ext.P3 Circular 49/10 on 20.8.2010 providing certain concessions. This Circular was withdrawn by Circular No.59/13 dated 25.9.2013.

4. During the period when the Circular was in force, the appellant submitted Ext.P4 representation dated 14.9.2010 to the first respondent seeking the benefit of Ext.P3. No decision was taken on Ext.P4. Instead the appellant was called upon to discharge the balance liability that is due. It was in such circumstances, the writ petition was filed.

5. Admittedly, Ext.P4 representation claiming the benefit of Ext.P3 Circular was submitted by the appellant during the period when Ext.P3 was in force. If that be so, Society had the responsibility of considering Ext.P4 in the light of Ext.P3 and should have communicated their decision thereon to the appellant. There is nothing on record to indicate that the Society has done so. Therefore, the fact that the Circular was subsequently withdrawn by the Registrar is not a reason for the Society to say that since the Circular is not in force now, the appellant cannot seek the benefit of Ext.P3.

6. Therefore, we direct the society to pass orders on Ext.P4 in the light of Ext.P3. This the society shall do within one month from today. We set aside the judgment under appeal and the appeal is disposed of with the above direction.

7. We also direct that further proceedings for realisation of balance due will be kept in abeyance until a decision on Ext.P4 is taken and communicated to the appellant.

Writ Appeal is disposed of.

Sd/-
ANTONY DOMINIC,
Judge

Sd/-
ALEXANDER THOMAS,
Judge

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