

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.VRAMAKRISHNA PILLAI

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 85 of 2014 (I)

PETITIONER

**RETNAMMA, PADINJAREKALATHISSERIL, KANICHIKULANGARA P.O.,
CHERTHALA, ALAPPUZHA - 688 544.**

**BY ADVS.SRI.P.N.MOHANAN
SMT.I.VINAYAKUMARI
SRI.K.S.ARUNDAS
SRI.C.P.SABARI
SRI.K.N.AJAYAN**

RESPONDENT(S):

- 1. THE KANICHIKULANGARA RURAL HOUSING CO-OPERATIVE SOCIETY
LTD. NO.A.680, REPRESENTED BY ITS SECRETARY
KANICHIKULANGARA P.O., CHERTHALA, ALAPPUZHA - 688 544.**
- 2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),
ALAPPUZHA - 688 001.**
- 3. ASSISTANT REGISTRAR OF CO-OPERATIVE SCIETIES, CHERTHALA,
ALAPPUZHA - 688 524.**
- 4. THE SALE OFFICER/SENIOR INSPECTOR, HOUSING FEDERATION/
THE KANICHIKULANGARA RURAL HOUSING CO-OPERATIVE
SOCIETY LTD.NO.A 680
KANICHIKULANGARA P.O., CHERTHALA, ALAPPUZHA - 688 544.**

**R1 BY ADV.SRI.R.RAMESH
R BY GOVERNMENT PLEADER SRI. NOUSHAD THOTTATHIL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28-01-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 85 of 2014 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1- TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 1ST RESPONDENT DATED 17/10/2008.**
- EXHIBIT-P2- TRUE COPY OF THE COMMUNICATION DATED 13/04/2009 OF THE 2ND RESPONDENT.**
- EXHIBIT-P3- TRUE COPY OF THE COMMUNICATION DATED 25/04/2009 ISSUED BY THE 3RD RESPONDENT.**
- EXHIBIT-P4- TRUE COPY OF THE NOTICE DATED 10/03/2011 ISSUED BY THE 4TH RESPONDENT.**
- EXHIBIT-P5- TRUE COPY OF THE NOTICE DATED 05/12/2013 OF THE 1ST RESPONDENT.**
- EXHIBIT-P6- TRUE COPY OF THE CIRCULAR NO. 43/2009 DATED 19/08/2009 OF THE REGISTRAR.**
- EXHIBIT-P7- TRUE COPY OF THE CIRCULAR NO. 42/2008 DATED 23/06/2008 OF THE REGISTRAR.**

RESPONDENT(S)' EXHIBITS

NIL

TRUE COPY

P.A TO JUDGE

SMM

A.V.RAMAKRISHNA PILLAI,J

.....
W.P.C. No.85 of 2014

.....
Dated this the 28th day of January,2015.

J U D G M E N T

Ext.P5 is under challenge.

2. The petitioner's mother availed a loan of Rs.1 lakh from the first respondent Society in the year 2000 by mortgaging 4.05 Ares of land. The purpose of loan was to construct a residential building. The period of repayment of loan was 10 years. The petitioner alleges that the loan was sanctioned after insuring the same by collecting Rs.2000/- per lakh as premium. Petitioner's mother was not able to pay the loan amount in time. Therefore the respondent Society initiated arbitration proceedings and obtained an award and to execute the same an E.P was filed. The proceedings were not properly prosecuted by the petitioner's mother. In the meanwhile petitioner's mother died on 14-8-2004.

3. The property was auctioned and the sale was confirmed in the name of Society itself. Thereafter the

Society issued Ext.P5 notice dated 5-12-2013 to the petitioner to evict the property within 30 days. The petitioner points out that she has no other building.

4. The main grievance of the petitioner is that the first respondent Society has not taken any steps to realize the money from the insurance company.

5. Therefore the writ petition is disposed of directing the respondent Co-operative Society to get the insurance amount, if any, reimbursed from the insurance company by appropriate proceedings, if the contract of insurance was subsisting on the date of death of the mother of the petitioner. Till that exercise is completed the petitioner shall not be evicted from the property. If it is found that the contract of insurance was not subsisting and no amount is liable to be reimbursed from the insurance company Ext.P5 notice already issued will stand.

If the first respondent Society finds that the insurance amount is available and the same is not sufficient to wipe off the liability in the name of the mother of the petitioner she shall be permitted to pay off the balance in six instalments and in the event of paying

back the entire amount together with interest and other consequential charges by the petitioner the property shall be re transferred to the petitioner.

**A.V.RAMAKRISHNA PILLAI,
JUDGE**

smm