

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 10775 of 2007 (G)

PETITIONER(S):

**MURUKKUMPUZHA SERVICE CO-OPERATIVE
BANK LTD.NO.T.292, MURUKKUMPUZHA P.O., TRIVANDRUM
REPRESENTED BY ITS SECRETARY.**

**BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR**

RESPONDENT(S):

- 1. THE VILLAGE OFFICER, VELLOOR,
TRIVANDRUM.**
- 2. THE DEPUTY TAHASILDAR (RR), TRIVANDRUM.**
- 3. THE DISTRICT COLLECTOR, TRIVANDRUM.**
- 4. S.SAJITHA, VILAYIL VEEDU,
MANGALAPURAM THONNAKKAL P.O., TRIVANDRUM.**

**R,R4 BY ADV. SRI.SANTHAN VN AIR
R BY GOVERNMENT PLEADER P.VLONACHAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ORDER IN I.A.NO.808 OF 2006 IN APPEAL 637 OF 2005 DATED 8.8.2006 OF THE COMMISSION.

EXT.P2: COPY OF THE LETTER NO.R.7-77898/05 DT.23.12.2005.

EXT.P3: COPY OF THE DEMAND NOTICE NO.M4-1301/06/CDRF DT.28.2.2006.

EXT.P3A: COPY OF THE DEMAND NOTICE NO.M4-1301/06/CDRF DT.23.8.2006.

EXT.P3B: COPY OF THE DEMAND NOTICE NO.M4-1301/06/CDRF DT.23.8.2006.

EXT.P4: COPY OF THE REPRESENTATION NO.9292/01 DT.11.1.2007.

EXT.P5: COPY OF THE REPRESENTATION DATED 11.12.2006.

EXT.P6: COPY OF THE DD FOR RS.10,000/- DATED 11.1.2007.

EXT.P6A: COPY OF THE DD FOR RS.20,000/- DATED 5.3.2007.

EXT.P6B: COPY OF THE DD FOR RS.25,000/- DATED 23.3.2007.

EXT.P7: COPY OF THE REPRESENTATION DATED 23.3.2007.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.10775 OF 2007 (G)

Dated this the 12th day of February, 2015

J U D G M E N T

The petitioner bank, which is a Co-operative Society registered under the Co-operative Societies Act, had received deposits to an extent of Rs.1.5 lakhs, for a period of one year, from the 4th respondent. Although the period of the deposit had matured, the petitioner bank was not in a position to repay the said amount, on account of it being faced with financial difficulties and functioning under an Administrator. This prompted the 4th respondent to approach the Consumer Dispute Redressal Forum, which passed an order directing the petitioner bank to effect repayment of the amounts deposited by the 4th respondent. When the petitioner bank did not comply with the directions of the Consumer Dispute Redressal Forum, the 4th respondent caused revenue recovery steps to be initiated against the petitioner, and, hence, the petitioner was served with revenue recovery notices for recovery of the said amounts. In the writ petition, it is the case of the petitioner that it has already paid an amount of Rs.80,000/- to the 4th respondent, but payment was not

accepted by the 4th respondent. It is now stated by counsel for the petitioner that the petitioner bank had subsequently offered the entire sum of Rs.1.5 lakhs to the 4th respondent, which she continued to refuse despite the payment having been offered by the petitioner. It is the submission of counsel for the petitioner that the petitioner bank has since stopped functioning and hence he is not in a position to get any instructions from the bank as regards the present position.

2. On a perusal of the file, I find that by an order dated 28.3.2007, this Court had granted an interim stay against the recovery proceedings, to the petitioner on condition that the petitioner paid the 4th respondent an amount of Rs.10,000/- per month on or before the last working day of every month commencing from April, 2007. Thereafter, when it was brought to the notice of this Court that the 4th respondent was refusing to accept the payments tendered by the petitioner, by an order dated 9.4.2008, the submission of counsel appearing for the 4th respondent, that the 4th respondent is willing to accept the payment tendered by the petitioner pursuant to the earlier order dated 28.3.2007, was recorded by this Court. Thereafter, the present writ petition did not come up for

orders till date. When the case is posted in the disposal list, although counsel for the petitioner submits that his last instruction from the petitioner bank was to the effect that the petitioner already offered Rs.1,60,000/- to the 4th respondent, and this is sought to be fortified by reference to Ext.P6 series of demand draft together with Exts.P8, P9 and P12 to P15 documents produced along with I.A.No.4420/2008, there is no representation for the 4th respondent to counter the submissions of counsel for the petitioner. Under these circumstances, and going by the submissions recorded before this Court on 9.4.2008 that the 4th respondent is willing to accept the payments tendered by the petitioner, the presumption to be drawn is that the 4th respondent has received the payments that were offered by the petitioner. Under these circumstances, nothing remains to be decided in this writ petition, and the writ petition is accordingly closed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp