

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH

WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYAISHTA, 1937

WP(C).No. 4982 of 2015 (W)

PETITIONER:

RADHAMMAL, W/O. THE LATE PARAMESWARAN PILLAI,
VAYALIRIKKATHU VEEDU, KULATHUPUZHA VILLAGE,
PATHANAPURAM TALUK, KOLLAM DISTRICT.

BY ADV. SRI. U. NAZEER

RESPONDENTS:

1. THE ANCHAL BLOCK HOUSING CO-OPERATIVE
SOCIETY LTD. NO. Q. 808,
REPRESENTED BY ITS SECRETARY.
2. ARBITRATOR AND INSPECTOR OF
CO-OPERATIVE SOCIETIES A & E-2,
OFFICE OF THE ASSISTANT REGISTRAR OF
CO-OPERATIVE SOCIETIES (GENERAL), PUNALUR.
3. ARBITRATOR - CUM - SPECIAL SALE OFFICER,
KERALA STATE CO-OPERATIVE HOUSING FEDERATION,
THIRUVANANTHAPURAM - 35.

R1 BY ADV. SRI. M. S. UNNIKRISHNAN
BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-06-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 : TRUE COPY OF THE AWARD DATED 20/01/2013 OF THE 2ND RESPONDENT.
- EXT.P2 : TRUE COPY OF THE DEATH CERTIFICATE ISSUED BY THE SECRETARY & REGISTRAR OF BIRTHS & DEATHS, KULATHUPUZHA GRAMA PANCHAYAT.
- EXT.P3 : TRUE COPY OF THE ORDER DATED 13/02/2014 IN EA.NO. 180/2013 IN EP.NO. 27/2012 IN ARC NO. 2090/2002 OF SUB COURT, KOTTARAKKARA.
- EXT.P4 : TRUE COPY OF THE REVIEW PETITION SUBMITTED BY THE 1ST RESPONDENT BEFORE THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES, PATHANAPURAM.
- EXT.P5 : TRUE COPY OF THE SUMMONS ISSUED TO THE PETITIONER.
- EXT.P6 : TRUE COPY OF THE AWARD DATED 14/08/2014 OF THE ARBITRATOR.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 10th day of June, 2015

JUDGMENT

One among the defendants in Ext.P1 award was dead even before the arbitration case was filed. But then notice on behalf of the deceased defendant was accepted by the other defendants. The fact that the said defendant had died when the award was passed was noticed at the execution stage.

2. The execution court held that the award sought to be executed against the legal heirs of the deceased defendants was a nullity. This prompted the award holder bank to re-open the entire proceedings by impleading the legal heirs of the deceased defendant. The application for review filed by the award holder bank was entertained and fresh notice was taken to the legal heirs of the deceased defendants and other defendants.

3. A revised award has accordingly been passed wherein the defendants (including the legal heirs of the deceased defendant) are alive. Firstly, a revised award is also open to appeal under Section 82 of the Kerala Co-operative Societies Act.

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Secondly a procedural defect in the arbitration proceedings has been set right by taking notice to all the persons. The award proceedings have been reopened and the defect rectified and the same cannot be termed as the exercise of review power.

4. The award holder bank instead of filing a fresh arbitration case has thought it fit to reopen the arbitration case itself. This is because the arbitration award against the other defendants who were alive was very much valid and subsisting. I do not think that any injustice has been committed by the arbitrator in passing a revised award with notice to all the persons impleaded. It is for the award holder to decide as to who should be proceeded against for realisation of the award amount.

The Writ Petition is dismissed. No costs.

**V. CHITAMBARESH
JUDGE**

ncd