

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 7276 of 2014 (H)

PETITIONERS:

1. M.RAMAKRISHNAN
S/O.KORAN (LATE), UDAYAGIRI, KAYYUR
2. THAMBAN. A
S/O.APPUNHI, ALAYIL HOUSE, KILAYIKODE PO
3. BALAKRISHNAN NAIR,
KAHIRAPUZHAVEEDU, PALOTH, PO.KAYYUR
4. NARAYANAN. K
S/O.CHERIYAMBU, KUNNUMMAL VEEDU
VELLAYIKODE PODAVOOR PO
5. BHARGAVI. K.V.
W/O.GANGADHARAN.E, ALANTHATTA, VALIYAPOYIL PO
6. SHYAMALA. M
D/O.K.P.VELLUNGA, MALENI HOUSE, ALANTHATTA
VALIYAPOYIL P.O., VIA CHERUVATHUR
7. JANAKI K
D/O.CHIRUTHA VELLAT, KILAYIKODE PO
8. NARAYANI C.K
CHERALAN KAKKAD VEEDU, VALIYAPOYIL
PO VALIYAPOYIL, CHEEMENI
9. YESODA. K
D/O.CHANDAN (LATE), KUNDAYAM, PETTIKUNDU PO
10. NARAYANI P.V
"POTHARA VALAPPIL", ELIKOTPOYIL, PO. VALIYAPOYIL
11. BABU. C
CHENALATH VEEDU, CHALLUVAKODE, VALIYAPOYIL

WP(C).No. 7276 of 2014

12. RAMAKRISHNAN P.P
S/O.KUNHAMBU, PUTHIYAPURAYIL HOUSE, CHIRIYALAM
PETTIKUNDA.
13. VINU ITTAMMAL
S/O.AMBADI, KARAKKAD, PETTIKUNDU PO
14. KALLYANI. A.C.
W/O.RAGHAVAN, CHERIYAKARA, PO.KAYYUR.
15. KALLIYANI K
KARAPATH HOUSE, VERIYAM, PODHAVOOR
16. SAROJINI U
D/O.AMBADI, ULLARA, KUNDAYAM.
17. MADHAVI K.K
D/O.AMBUNHI, KAKKADAVU, PO. PETTIKUNDU.
18. BALAKRISHNAN. C
CHEROOPA HOUSE, NHANDADI, PODAVOOR PO
19. ROHINI T.P
THANDADE PURAYILE, PETTIKUNDU P.O., PETTIKUNDU
20. BHASKARAN. V.V
UNNIYAN VALAPPIL, CHEEMENI P.O., VIA CHERUVATHUR.
21. BHASKARAN P
S/O.LATE RAMAN. K, CHEENALLA, CHEEMENI PO
22. NARAYANI T.V.
THAZHATHU VEEDU, KANDOTHUMPOYIL, PO CHEEMENI
23. RAJEEVAN. K
S/O.KANNAN, KUNDATHIL, KLAIKODE PO

BY ADV. SRI.M.V.AMARESAN

RESPONDENTS:

1. KAYYUR-CHEEMENI GRAMA PANCHAYATH
REPRESENTED BY SECRETARY, CHEEMENI
KASARAGOD DISTRICT - 671 313.
2. SECRETARY TO GOVERNMENT
DEPARTMENT OF LOCAL SELF GOVERNMENT
THIRUVANANTHAPURAM - 695 001.

WP(C).No. 7276 of 2014

3. THE THIMIRI SERVICE CO-OPERATIVE BANK
REPRESENTED BY SECRETARY, THIMIRI PO.
KASARAGOD - 671315

R1 BY ADV. SRI.SURESH KUMAR KODOTH, SC
R2 BY GOVERNMENT PLEADER SRI.NOUSHAD THOTTATHIL

THIS WRIT PETITION (CIVIL)HAVING BEEN FINALLY HEARD ON
24.07.2015, THE COURT ON 30.07.2015 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXHIBIT P1 : TRUE COPY OF THE FIRST PAGE OF THE PASSBOOK WITH ACCOUNT NO.4925 ISSUED BY THE 3RD RESPONDENT BANK TO THE 1ST PETITIONER.

EXHIBIT P1(A) : TRUE COPY OF FIRST PAGE OF THE PASSBOOK WITH ACCOUNT NO.4918 ISSUED BY THE 3RD RESPONDENT BANK TO THE 2ND PETITIONER.

EXHIBIT P1(B) : TRUE COPY OF THE FIRST PAGE OF THE PASSBOOK WITH ACCOUNT4779 ISSUED BY THE 3RD RESPONDENT BANK TO THE 3RD PETITIONER.

EXHIBIT P1(C) : TRUE COPY OF THE FIRST PAGE OF THE PASSBOOK WITH ACCOUNT NO.4871 ISSUED BY THE 3RD RESPONDENT BANK TO THE 4TH PETITIONER.

EXHIBIT P2 : TRUE COPY OF BEARING NO.GO(MS) NO.90/13 LSGD. TRIVANDRUM DATED 14.03.2013 PASSED BY THE 2ND RESPONDENT.

EXHIBIT P3 : TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER TO THE HON'BLE CHIEF MINSTER OF KERALA

EXHIBIT P4 : TRUE COPY OF THE REPLY DATED 06.01.2014 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

SHAJI P. CHALY, J.

W.P.(C). No.7276 OF 2014

Dated this the 30th day of July, 2015

JUDGMENT

This writ petition is filed by the petitioners seeking direction to respondents 1 and 2 to pay enhanced rate of benefit to the petitioners under the E.M.S. Housing Scheme launched by the State Government and implemented through Local Self Government institutions.

2. Brief facts for the disposal of the writ petition are as follows:

3. Petitioners who were homeless people residing within the limits of the 1st respondent Grama Panchayat were identified as beneficiaries to secure home loan under E.M.S. Home Loan Scheme. Accordingly, they were initially sanctioned Rs.75,000/- each which were disbursed through the 3rd respondent bank. Since the amounts so sanctioned were hardly sufficient for building a house, they have requested for additional financial support on the basis of Ext.P2 Government Order dated

14.03.2013.

4. According to the petitioners, as per Ext.P2, the State Government have decided to enhance the financial support from Rs.75,000/- to Rs.2,00,000/- in order to enable the petitioners to complete the construction of houses. They contend that even though they have approached the respondents, respondents have not cared to provide the additional financial support offered by the Government as per Ext.P2 order. Confronted with such situation, petitioners have preferred Ext.P3 representation before the Chief Minister of the State seeking his intervention and direction to the Local Self Government Institutions to implement the additional scheme put forth as per Ext.P2 Government Order.

5. It was the further contention of the petitioners that in spite of Ext.P3 representation, there was no positive response from the respondents and thereupon petitioners have submitted an application under the Right to Information Act before the 1st respondent and secured Ext.P4 reply stating that the 1st respondent has taken up the matter with the State Government and as and when response is made by the Government to the action taken by the 1st respondent, the enhanced amount will be released to the petitioners. They further contended in spite of

Ext.P4 reply dated 06.01.2014, there was no action from the part of any of the respondents in order to release the enhanced fund. In that situation, it was contended by the counsel for petitioners that the half way built houses are subjected to vagaries of nature and are getting ruined and in that situation they are put to innumerable difficulties and losses. It is their further case that since there was no positive result to the endeavours made by them, they were constrained to file the writ petition.

6. Second respondent in the counter affidavit contended that petitioners are entitled to get enhanced financial support as per Ext.P2 and also the Government Order bearing No.GO(MS) No.52/12LSGD dated 27.2.2012 upto an amount of Rs.2,00,000/- to general and scheduled caste category applicants and Rs.2,50,000/- to scheduled tribe category applicants. But at the same time, it was further contended that the extent of liability of the Government, so far as the financial support is concerned is the payment of maximum interest at the rate of 10.75% against any loan secured by Local Self Government Institutions from the Co-operative banks or societies as provided under Ext.P2 notification dated 14.3.2013. First respondent Panchayat in its counter affidavit contended that the petitioners are beneficiaries entitled to get enhanced financial support at the rate of

Rs.2,00,000/- per person on the basis of enquiry carried out by it. It is the further contention of the Panchayat that the Panchayat has made every positive efforts to make available the additional funds for distribution to the qualified beneficiaries. Further it was contended that out of the 23 beneficiaries, 17 persons have already completed construction of houses and since the sanction of the Government is still awaited, the Panchayat is unable to do anything in the matter.

7. On a perusal of Ext.P2 Government Order, it is categoric and clear that the Government have issued appropriate direction in paragraph 6 of the order to the Local Self Government Institutions to submit the loan details to the Government before 30.06.2013 in order to ascertain the determination of interest burden by the Finance Department. Further in paragraph 5 of the said order, it was stated the role of the Government under this scheme is payment of interest to the loan secured by the Local Self Government Institutions from the Co-operative banks in order to release the enhanced compensation to the beneficiaries of this scheme. It was also stipulated in the said order that the Government will be liable to pay only the interest portion of the loan secured by the Local Self Government Institutions and that too upto to a maximum of 10.75%.

8. Therefore, after appreciating the pleadings in the writ petition, attendant documents produced along with it and the counter affidavits filed by the 1st and 2nd respondents, I am of the considered opinion that so far as the entitlement of the enhanced compensation claim of the petitioners are concerned, there is no dispute for the same either by the 1st respondent Panchayat or the 2nd respondent Government. In that view of the matter, the 1st respondent contended that without getting approval, they are unable to secure loans from the Co-operative banks and release the same to the petitioners. According to me, when such schemes are launched and the beneficiaries are identified and the initial payments were released to them, there is a duty casted on the respondents to see that the additional financial support is released to these poor people in a time bound manner otherwise, they will be put to innumerable difficulties and losses. Therefore, the contentions raised by the petitioners in the writ petition that their half built houses is subjected to vagaries of nature can only be found to be correct.

9. In a situation like this, the Local Self Government Institutions should properly and effectively co-ordinate the situation with the appropriate department of the Government in a time bound manner and should ensure that the additional

funds are released to the petitioners.

10. Therefore, the writ petition is disposed of with a direction to the 1st respondent to release the additional amount due to the petitioners under the EMS Home Loan Scheme after completing all the formalities that are required under the scheme, within an outer limit of 45 days from the date of receipt of a copy of this judgment. In order to enable the 1st respondent to proceed with the formalities, the petitioner shall produce a certified copy of this judgment before the 1st respondent.

Writ petition is disposed of accordingly.

Sd/-

SHAJI P. CHALY
JUDGE

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