

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C) . No.7643 of 2014 (E)

PETITIONER(S) :

VILAPPIL SERVICE CO-OPERATIVE BANK LIMITED,
NO 2522, PEYAD, THIRUVANANTHAPURAM DISTRICT,
REPRESENTED BY ITS SECRETARY, ANIL KUMAR,
S/O MADANAPPAN NAIR, AGED 53 YEARS.

BY ADV. SRI.BABU S.NAIR

RESPONDENT(S) :

1. THE ADDITIONAL DIRECTOR (SPECIAL OFFICER) ,
KERALA STATE VETERINARY COUNCIL, PEROORKADA,
THIRUVANANTHAPURAM DISTRICT
2. DR. BIJU L. RAJ,
LEELA COTTAGE, JAYAPRAKASH LANE, KUDAPPANAKUNNU P.O.,
THIRUVANANTHAPURAM DISTRICT.
3. DR. RABEKKA THOMAS,
SANGAMAM K.P 8/98 DARSAN NAGAR, KUDAPPANAKUNNU P.O.,
THIRUVANANTHAPURAM DISTRICT.

BY GOVERNMENT PLEADER SHRI NOUSHAD THOTTATHIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS:

EXHIBIT P1 TRUE COPY OF THE NON LIABILITY CERTIFICATE ISSUED BY
THE IST RESPONDENT IN RESPECT OF THE 2ND RESPONDENT.

EXHIBIT P2 TRUE COPY OF THE NON- LIABILITY CERTIFICATE ISSUED BY
THE IST RESPONDENT IN RESPECT OF THE 3RD RESPONDENT.

EXHIBIT P3 TRUE COPY OF THE REQUISITION ISSUED BY THE PETITIONER
TO THE IST RESPONDENT DATED 15-09-2008 UNDER THE
SECTION 37 OF THE KERALA, CO-OPERATIVE SOCIETIES ACT

RESPONDENT(S) ' EXHIBITS: NIL

KRJ

/True Copy/

P.A to Judge

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.7643 of 2014

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Dated this the 15th day of January, 2015

JUDGMENT

This writ petition is filed alleging that one A. Sivirajan, a member of the petitioner bank had availed a loan of ₹1 lakh for the purpose of his business on 15.12.2006. Respondents 2 and 3 stood as guarantors to the said loan. The loan was sanctioned and disbursed, after executing all necessary documents with the bank, including an agreement, assuring proper repayment. The amount was disbursed upon Exts.P1 and P2 salary/non-liability certificates issued by the first respondent, who was the disbursing officer.

2. The petitioner further alleges that as per Exts.P1 and P2, the first respondent had agreed to recover the loan amount from the salaries of respondents 2 and 3 in case the loanee commits default in making the payment. Since the loanee committed default, the petitioner had sent several requisitions for recovery of the amounts

from the salary. Ext.P3 is one of such requisitions issued by the petitioner to the second respondent under Section 37 of the Act. The petitioner further alleges that as on 26.2.2014, a total amount of ₹ 1,64,016/- is due from the loanee to be paid to the bank towards the loan.

3. The petitioner also alleges that the first respondent is duty bound to recover the aforesaid amount upon the requisition of the petitioner. According to the petitioner, ever after a long lapse of time after requisition, respondents 1 and 2 have not taken any steps to recover the amount due to the petitioner bank. It is with this background, the petitioner has come up before this Court.

4. When the matter came up for consideration, the learned counsel for the petitioner inviting my attention to the decision of a Division Bench of this Court in **Chengamanad Service Co-op. Bank Ltd. v. Mohan** [2009 (3) KLT 623] submitted that the position is covered against the petitioner.

In the light of the said submission, the writ petition is dismissed reserving the right of the petitioner to seek remedies by way of arbitration.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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