

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

WP(C).No. 9414 of 2015 (B)

PETITIONER :

**N.K. SADASIVAN PILLAI,
INDIRA NIVAS, KOLIYAKODE, KOLIYAKODE (P.O.),
VENJARAMMOOD (VIA), TRIVANDRUM-695 607.**

**BY SRI.N.NANDAKUMARA MENON,SENIOR ADVOCATE
ADVS. SRI.P.K.MANOJKUMAR
SMT.SMITHA S.PILLAI**

RESPONDENT(S):

- 1. KOLIYAKODE CONSUMER CO-OPERATIVE SOCIETY LIMITED NO.T.1002,
TRIVANDRUM-695 607, REPRESENTED BY ITS SECRETARY.**
- 2. THE SECRETARY TO GOVERNMENT,
CO-OPERATION (C) DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),
THIRUVANANTHAPURAM-695 001.**
- 4. THE PRESIDENT,
KOLIYAKODE CONSUMER CO-OPERATIVE SOCIETY LIMITED NO.T 1002,
TRIVANDRUM-695 607.**
- 5. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM-695 001.**

R1 & R4 BY ADVS. SRI.V.G.ARUN

SRI.T.R.HARIKUMAR

R2,R3 & R5 BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26-05-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: THE PHOTOSTAT COPY OF THE JUDGMENT DATED 6.2.2008 IN W.P(C) NO.8795 OF 2006(V) PASSED BY THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM.
- EXT.P2: THE PHOTOSTAT COPY OF THE ORDER NO.G/5941/08 DATED 22.7.2009 ISSUED BY THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL) TVM.
- EXT.P3: THE PHOTOSTAT COPY OF THE JUDGMENT DATED 3.1.2011 IN W.P(C) NO.18950 OF 2010(P) PASSED BY THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM.
- EXT.P4: THE PHOTOSTAT COPY OF THE ORDER G.O.(RT)NO.194/11/CO-OP. DATED 19.3.2011 ISSUED BY THE GOVERNMENT, TO THE PETITINER.
- EXT.P5: THE PHOTOSTAT COPY OF THE JUDGMENT DATED 15.7.2014 IN W.P(C) NO.12030 OF 2011 PASSED BY THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM.
- EXT.P6: THE PHOTOSTAT COPY OF THE JUDGMENT DATED 7.1.2015 IN W.A.NO.1940/2014 PASSED BY THE HONBLE HIGH COURT OF KERALA AT ERNAKULAM.
- EXT.P7; THE PHOTOSTAT COPY OF THE REPRESENTATION DATED 13.2.2015 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT SOCIETY.
- EXT.P8: THE PHOTOSTAT COPY OF THE REPRESENTATION DATED 30.12.2014 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT SOCIETY.

RESPONDENT(S)' EXHIBITS

- EXT.R4(A): TRUE COPY OF THE RESOLUTION NO.1/2015-16 DATED 26/04/2015 TAKEN BY THE MANAGING COMMITTEE OF THE 1ST RESPONDENT
- EXT.R4(A) (i): ENGLISH TRANSLATION OF EXT.R4(A) (i)
- EXT.R4(B): TRUE COPY OF THE LETTER ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER DATED 06/05/2015.
- EXT.R4(B) (i): ENGLISH TRANSLATION OF EXT.R4(A) (i)

/TRUE COPY/

P.A.TO JUDGE

sts

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 9414 of 2015

Dated this the 26th day of May, 2015

JUDGMENT

The petitioner, an octogenarian, seems to have had an innocuous desire of having the membership of the first respondent Society, for achieving which objective he has been, unfortunately, driven to multiple rounds of litigation by the Society.

2. The facts in brief are that, initially having failed to secure the membership of the society, when the petitioner complained to the third respondent, the said authority passed Exhibit P2 order, seeking the implementation of which the petitioner filed a writ petition and invited Exhibit P3 judgment. In fact, in the writ petition, the respondent society took a plea that Exhibit P2 order had already been appealed against before the second respondent. Under those circumstances, this Court rendered Exhibit P3

judgment, recording the said factum of the respondent society filing an appeal against Exhibit P2 order.

3. The second respondent, the appellate authority, passed Exhibit P4 order in appeal affirming Exhibit P2 order passed by the third respondent. Unrelentingly, the respondent society filed a writ petition and invited Exhibit P5 judgment, through which a learned single Judge of this Court rejected the claim of the society concerning Exhibit P2 order, as has been affirmed in appeal in Exhibit P4 order. Eventually, the respondent society filed a writ appeal and invited Exhibit P6 judgment, which is not different, inasmuch as a learned Division Bench has affirmed Exhibit P5 judgment rendered by a learned single Judge.

4. With no positive action still emanating from the respondent society, the petitioner, this time, approached the learned Ombudsman, who issued an order on 20.11.2014, which again, unfailingly, challenged by the respondent society before this Court. It is reported that the said W.P. (C) No. 35129/2014 was also dismissed on 20.03.2015. Under these circumstances, the petitioner filed the present writ petition seeking the implementation of Exhibit P2 order,

which has already traveled quite a distance.

5. Having entered appearance, the respondent society, generously, at least this time, filed Exhibit R4(a), which is said to be the resolution passed by the society to grant membership to the petitioner on his remitting the application fee and share value. Exhibit R4(b) is the communication to the petitioner in that regard.

6. Under the above circumstances, the learned Senior Counsel for the petitioner has submitted that, recording the undertaking on the part of the respondent society, as has been reflected in Exhibit R4(a), this Court may close the writ petition, with a specific direction, according to the learned Senior Counsel, given the past experience with the respondent society, to implement its own R4(a) resolution forthwith.

7. The learned counsel for the first respondent society has submitted that the respondent society would not go back on its resolution and it would be taking all necessary steps to ensure expeditious grant of membership to the petitioner, provided he complies with the statutory parameters, as has been indicated in Exhibit R4(a) resolution.

8. In the light of the eventual happy conclusion, I do not think that there is any issue to be resolved in the writ petition, except placing on record the Courts displeasure at the attitude of the respondent society in dragging an octogenarian to Courts in multiple rounds, for which purpose the society, too, has spent public money, apart from forcing the petitioner to spend, needlessly, his precious savings. Be that as it may, the Court is hopeful that the respondent society will, at least this time, implement Exhibit R4(a) resolution without taking shelter or excuse under any technicalities.

With the above observations, this writ petition stands closed. No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-