

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

WP(C).No. 20468 of 2005 (J)

PETITIONER:

POOVARANI SERVICE CO-OPERATIVE
BANK LTD. NO.2882, POOVARANI P.O.,
KOTTAYAM REPRESENTED BY ITS SECRETARY.

BY ADVS.SRI.BECHU KURIAN THOMAS
SRI.PAUL JACOB (P)

RESPONDENTS:

1. THE GOVERNMENT OF KERALA,
REPRESENTED BY JOINT SECRETARY TO GOVERNMENT,
CO-OPERATION (C) DEPARTMENT, THIRUVANANTHAPURAM.
2. REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM.
3. JOINT REGISTRAR, OFFICE OF
THE JOINT REGISTRAR, KOTTAYAM.
4. ASSISTANT REGISTRAR, OFFICE OF THE
ASSISTANT REGISTRAR, MEENACHIL, KOTTAYAM.
5. MEENACHIL SERVICE CO-OPERATIVE
BANK LTD. NO.K.271, MEENACHIL, EDAMATTOM P.O.,
KOTTAYAM.

R,R5 BY ADV. SRI.SHAJI THOMAS PORKKATTIL
R BY SRI. G. GOPAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 : TRUE COPY OF THE ORDER DATED 19.09.2002 AND
NUMBERED AS CRP(1)1826/2001 PASSED BY THE 3RD
RESPONDENT.
- EXT.P2 : TRUE COPY OF THE ORDER DATED 08.12.2003 AND
NUMBERED AS G.O(Rt) NO.704/2003/CO-OP PASSED BY
THE FIRST RESPONDENT.
- EXT.P3 : TRUE COPY OF THE COMPLAINT MADE BY THE PETITIONER
BEFORE THE 2ND RESPONDENT DATED 31.12.2003.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 20468 of 2005 (J)

Dated this the 27th day of July, 2015.

JUDGMENT

Heard the learned counsel for the petitioner, the learned Government Pleader and the learned counsel for the 5th respondent, apart from perusing the record.

2. The petitioner, a registered Co-Operative Society, has a grievance that the 5th respondent Bank has commenced its operations without any valid sanction in the area earmarked for the petitioner. Initially, the 3rd respondent passed Ext.P1 order directing the 5th respondent to close its banking operations within the territorial limits of the petitioner. Though the 5th respondent has laid challenge against Ext.P1, the first respondent, through Ext.P2, affirmed the order in Ext.P1, thereby rejecting the claim of the 5th respondent, concurrently. Seeking implementation of Ext.P2, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner has submitted that Ext.P2 order was passed in 2003 and it has attained finality, for the 5th respondent has not chosen to challenge it. According to the

learned counsel, the continuation of the 5th respondent's banking operations within the petitioner's area is totally illegal and impermissible.

4. The learned counsel for the 5th respondent has submitted that the claim of the 5th respondent to commence its operations in the area said to have been allotted to the petitioner was only on a technical ground that the 5th respondent did not have prior sanction. He has also contended that the 5th respondent is carrying on its banking operations within its allotted area, but not in the area allotted to the petitioner.

5. At any rate, the 5th respondent is said to have submitted an application before the 3rd respondent seeking the necessary permission under Section 7 of the Kerala Co-Operative Societies Act (for brevity 'the Act'). According to the learned counsel for the 5th respondent, though a hearing took place way back in 2012 — to be precise, on 02.11.2012 — so far the third respondent has not passed any orders.

6. In reply, the learned counsel for the petitioner has submitted that all the contentions the learned counsel for the 5th respondent has

presently taken had already been raised before the third respondent and also before the first respondent, but they stood comprehensively rejected by the said authorities. He has further submitted that if at all this Court is inclined to issue a direction to the third respondent to act expeditiously on the application said to have been submitted by the 5th respondent under Section 7 of the Act, there shall be a fresh hearing affording an opportunity to the petitioner as well, given the efflux of time.

7. Though this Court is usually not inclined to issue any directions which fall beyond the scope of the writ petition, the fact, however, remains that the writ petition was filed way back in 2005. Further, owing to the lack of further intervention in the matter, the 5th respondent has continued its operation for more than a decade. Coupled with that is the fact that the third respondent is said to have heard the 5th respondent way back in 2012 on the application for necessary prior sanction under Section 7 of the Act.

8. Comprehensively viewed, it is in the interest of justice to take into account subsequent developments and grant the relief accordingly, without prejudice to the petitioner though.

Thus, having regard to the respective submissions of the learned counsel for the petitioner, the learned counsel for the 5th respondent and the learned Government Pleader, this Court, without adverting to the merits of the matter, disposes of the writ petition with a direction to the third respondent to consider the 5th respondent's application said to have been filed on 31.10.2012 invoking Section 7 of the Act and pass appropriate orders thereon in accordance with law, after affording an opportunity of hearing to the 5th respondent and the petitioner, as expeditiously as possible, at any rate, within six weeks from the date of receipt of a copy of this judgment. It is made clear that the continuation of the 5th respondent's banking operations in the area impugned shall be subject to the outcome of the order to be passed by the third respondent, inasmuch as Ext.P2 order is still in force.

sd/- DAMA SESHADRI NAIDU, JUDGE.

