

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 11700 of 2014 (J)

PETITIONER(S)/PETITIONER:

A.KALADARAN
S/O.A.ARUMUGAN, CHAKKARATTUKULAMBU, PAYYALORE
KOLLENGODE.P.O, PALAKKAD-678506.

BY ADVS.SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA

RESPONDENT(S)/RESPONDENT:

1. THE JOINT REGISTRAR (GENERAL)
OFFICE OF THE JOINT REGISTRAR, CIVIL STATION
PALAKKAD DISTRICT, PIN-678001.
2. THE ASSISTANT REGISTRAR(GENERAL),
OFFICE OF THE ASSISTANT REGISTRAR, CHITTOOR
PALAKKAD DISTRICT, PIN-678101.
3. KOLLAMKODE AGRICULTURAL SERVICE CO-OPERATIVE BANK
LTD.NO.7561,
KOLLAMKODE, PALAKKAD DISTRICT, PIN-678506
REPRESENTED BY ITS SECRETARY.
4. THE SECRETARY,
KOLLAMKODE AGRICULTURAL SERVICE CO-OPERATIVE BANK LTD
KOLLAMKODE, PALAKKAD DISTRICT, PIN-678506.
5. THE PRESIDENT,
KOLLAMKODE AGRICULTURAL SERVICE CO-OPERATIVE BANK LTD
KOLLAMKODE, PALAKKAD DISTRICT, PIN-678506.
6. C.SARASIJA,
D/O.LATE CHANDRASEKHARA MENON, XVII/155, 'SREENIVAS'
CHONDATH ROAD, NALLEPPILLY POST, PALAKKAD DISTRICT
PIN-678553.

R3-R5 BY ADV. SRI.V.M.KURIAN
R3-R5 BY ADV. SRI.MATHEW B. KURIAN
R3-R5 BY ADV. SRI.K.T.THOMAS
R6 BY ADV. SRI.JAIBY PAUL
R6 BY ADV. SMT.ANITA GLENDA PHILIP
R BY GOVERNMENT PLEADER SRI.T.R.RAJESH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
12-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 COPY OF THE RELEVANT PORTION OF THE MINUTE'S BOOK EVINDENCING
RESOLUTION NO.16,DATED 6-6-2013.

EXT.P2 COPY OF THE RESOLUTION DATED 25-07-2013

EXT.P3 COPY OF THE SUSPENSION ORDER DATED 13-08-2013

EXT.P4 COPY OF THE MEMO CHARGES DATED 28-08-2013

EXT.P5 COPY OF THE APPLICATION FOR EXTENSION OF TIME ALONG WITH LEAVE
APPLICATION

EXT.P6 COPY OF THE ORDER DATED 14-09-2013 OF THE SUB COMMITTEE

EXT.P7 COPY OF THE LETTER DATED 1-10-2013

EXT.P8 COPY OF THE PLAINT OF A.R.C.NO.47 OF 2013 OF CO-OPERATIVE
ARBITRATION COURT(NORTHERN REGION)

EXT.P9 COPY OF THE ENQUIRY REPORT DATED 1-11-2013

EXT.P10 COPY OF THE SHOW CAUSE NOTICE DATED 5-11-2013

EXT.P11 COPY OF THE DISMISSAL ORDER PASSED BY THE SUBCOMMITTEE

EXT.P12 COPY OF THE PLAINT OF A.R.C.NO.32 OF 2011 FILED BY THE SOCIETY
BEFORE THE JOINT REGISTRAR/ARBITRATOR

EXT.P13 COPY OF THE APPLICATION DATED 23-4-2014 FILED BY THE 6TH
RESPONDENT BEFORE THE 3RD RESPONDENT

EXT.P14 COPY OF THE RESOLUTION DATED 24-4-2014 AND THE DISSENTING NOTE
RECORDED BY THE DISSENTING MEMBERS

EXT.P15 COPY OF THE APPLICATION FILED BEFORE THE JOINT REGISTRAR FOR
RESENTING THE RESOLUTION DATED 25-4-2014 PREFERRED BY THE
MEMBERS OF THE DIRECTOR BOARD BEFORE THE JOINT REGISTRAR

EXT.P16 COPY OF THE REPRESENTATION AGAINST THE WITHDRAWING OF THE
A.R.C.NO.32 OF 2014.

EXT.P17 TRUE COPY OF THE MINUTES OF THE RELEVANT AGENDA OF MEETING
OF THE BOARD OF DIRECTORS OF THE THIRD RESPONDENT BANK
DATED 6.6.2013.

EXT.P18 TRUE COPY OF THE REPORT OF THE INSPECTOR ATTACHED TO THE
OFFICE OF THE SECOND RESPONDENT DATED 10.6.2014.

EXT.P19 TRUE COPY OF THE NOTICE OF THE FIRST RESPONDENT DIRECTING THE
SIXTH RESPONDENT TO APPEAR FOR A PERSONAL HEARING ON
28.2.2015.

: 2 :

EXT.P20 TRUE COPY OF THE REPORT DATED 21.5.2014 OF THE SECOND
RESPONDENT SUBMITTED TO THE FIRST RESPONDENT.

RESPONDENT(S)' EXHIBITS

- EXT.R6(a) A TRUE COPY OF THE NOTICE NO.6427/2011/C.R.P. DATED
3.5.2013 ISSUED BY THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES, PALAKKAD.
- EXT.R6(b) A TRUE COPY OF THE REPLY DATED 27.5.2013 SUBMITTED
BY THE SIXTH RESPONDENT.
- EXT.R6(c) A TRUE COPY OF THE NOTICE DATED 13.8.2013 ISSUED BY THE
PRESIDENT IN CHARGE OF THE SOCIETY TO THE SIXTH RESPONDENT.
- EXT.R6(d) A TRUE COPY OF THE ORDER IN A.R.C.32/2014 DATED 24.4.2014.
- EXT.R6(e) A TRUE COPY OF THE ORDER IN ARC.NO.47/2013 DATED
27.5.2014.
- EXT.R3(a) TRUE COPY OF THE MINUTES OF THE MEETING OF THE MANAGING
COMMITTEE ON 23.6.2010.
- EXT.R3(b) TRUE COPY OF THE MINUTES OF THE MEETING ON 7.8.2009.
- EXT.R3(c) TRUE COPY OF THE MINUTES OF THE MEETING ON 9.9.2009
- EXT.R3(d) TRUE COPY OF DETAILS OF 52 EXECUTION PETITION FILED
BEFORE MUNSIFF COURT AND SUB COURT.
- EXT.R3(e) TRUE COPY OF DETAILS OF 342 EXECUTION PETITION FILED
BEFORE MUNSIFF COURT.
- EXT.R3(f) TRUE COPY OF THE DETAILS OF 274 ARBITRATION AWARDS.
- EXT.R3(g) TRUE COPY OF THE REPLY DATED 20.3.2014 SUBMITTED BY
THE PRESIDENT.

//TRUE COPY//

P.S. TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) No.11700 of 2014

Dated this the 12th day of March, 2015

J U D G M E N T

The prayers in the writ petition are as follows:-

- i) To issue a writ of certiorari or appropriate writ, order or direction calling for records leading to Ext.P14 and quash the Ext.P14.
- ii) To issue a writ of mandamus or appropriate writ, order or direction directing the respondents 1 and 2 to pass appropriate orders in accordance with law on Ext.P15 and Ext.P16.
- iii) To issue a writ of mandamus or appropriate writ, order or direction directing the respondents 3 to 5 not to disburse the pensionary benefits to the 6th respondent before finalizing A.R.C.No.32 of 2014 pending before the 1st respondent.
- iv) To issue a writ of mandamus or appropriate writ, order or direction directing the respondents 1 and 2 not to permit the respondents 3 to 5 to withdraw A.R.C.No.32 of 2014 pending before the 1st respondent.
- v) To issue such other writ, order or directing which this Hon'ble Court may deem just, fit and proper in the facts and circumstances of the case.

2. Prayer No.4:- No permission is necessary for respondents 3 to 5 to withdraw A.R.C.No.32/2014 filed by them against the sixth respondent. Moreover A.R.C.No.32/2014 on the file of the first respondent has already been withdrawn by respondents 3 to 5. Therefore Prayer No.4 has become infructuous.

3. Prayer No.3:- The petitioner seeks to withhold the pensionary benefits of the sixth respondent before finalizing A.R.C.No.32/2014 on the file of the first respondent. Now that A.R.C.No.32/2014 has already been withdrawn by respondents 3 to 5. Therefore there can be no inhibition in disbursing the pensionary benefits due to the sixth respondent.

4. Prayer No.2:- The petitioner seeks an early consideration of Exts.P15 and P16 representations by respondents 1 and 2. Exts.P15 and P16 representations have not been filed by the petitioner. Moreover only a dispute under Section 69 of the Kerala Co-operative Societies Act can be raised by the petitioner as a member.

5. Prayer No.1:- The petitioner seeks to

quash Ext.P14 resolution passed by the third respondent Bank. A resolution can only be rescinded in accordance with Rule 176 of the Kerala Co-operative Societies Rules. A Writ Petition under Article 226 of the Constitution of India will not lie as held in Abraham v. Elikulam Service Co-operative Bank Ltd. [2004 (3) KLT 25].

6. Prayer No.5:- This is an omnibus prayer based on Ext.P18 communication issued by the Enquiry Officer to the first respondent. The Government Pleader points out that hearing is slated on 28/3/2015 in this regard. I direct the first respondent to take the proceedings to a logical end within a period of three months.

No further directions are warranted and the Writ Petition is disposed of.

Sd/-
V.CHITAMBARESH,
Judge.

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