

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 14450 of 2014 (E)

**AGAINST THE JUDGMENT IN APPEAL NO. 41/2013 of KERALA
CO-OPERATIVE TRIBUNAL, THIRUVANANTHAPURAM.**

PETITIONER:

**AVITTATHUR SERVICE CO-OPERATIVE BANK NO. 706
KALLETUMKARA, THRISSUR DISTRICT,
REPRESENTED BY ITS SECRETARY-IN-CHARGE, BHARATHAN,
AGED 54 YEARS, S/O.VELAYUDHAN.**

**BY ADVS.SRI.RENJITH THAMPAN (SR.)
SMT.P.R.REENA**

RESPONDENT:

**SREEVIDYA
W/O.SREEKRISHNAKUMAR, KANDIKAMADOM, AVITTATHUR DESOM
KADUPPASSERY P.O., THRISSUR DISTRICT, PIN - 680 683.**

R1 BY ADV. SRI.A.KRISHNAN.AMICUS CURIAE

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
j10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 14450 of 2014 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. TRUE COPY OF THE AGREEMENT DATED 01.06.2009 ENTERED
WITH THE RESPONDENT.**

**EXHIBIT P2. TRUE COPY OF THE LETTER DATED 18.01.2010 SENT BY THE
RESPONDENT TO THE PETITIONER.**

**EXHIBIT P3. TRUE COPY OF THE STOCK VERIFICATION DETAILS DATED
19.01.2010.**

**EXHIBIT P4. TRUE COPY OF THE PLAINT COPY IN ARC.NO.624/2010 FILED
BEFORE THE ARBITRATOR.**

**EXHIBIT P5. TRUE COPY OF THE AWARD IN ARC.NO.624/2010 DATED
13.02.2013.**

**EXHIBIT P6. TRUE COPY OF THE MEMORANDUM OF APPEAL PETITION
NO.41/2013 FILED BEFORE THE CO-COPERATIVE TRIBUNAL
THIRUVANANTHAPURAM DATED 13.04.2013.**

**EXHIBIT P7. TRUE COPY OF THE JUDGMENT IN APPEAL NO.41/2013 DATED
24.01.2014 OF CO-OPERATIVE TRIBUNAL,
THIRUVANANTHAPURAM.**

RESPONDENT(S)' EXHIBITS NIL

//TRUE COPY//

PA TO JUDGE

V. CHITAMBARESH, J.

W.P.(C).No.14450 OF 2014

Dated this the 10th day of February, 2015

J U D G M E N T

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Valid reasons have been stated by the Kerala Co-operative Tribunal, Thiruvananthapuram in Ext.P7 judgment to reverse Ext.P5 award in the arbitration case. The arbitration case was filed for realisation of a sum of Rs.1,01,314.85/- on the ground that the respondent availed a loan from the petitioner bank. But a shift was given in the midst of the proceedings, confining the claim on the basis of Ext.P3 stock statement. What prevented the petitioner bank from producing Ext.P3 stock statement along with Ext.P4 plaint in the arbitration case is bewildering.

2. Less said about Ext.P3 stock statement is better since it contains several corrections and interpolations. Ext.P3 stock statement does not contain the signature of the person, who verified the stock, and also the seal of the petitioner bank. The witness examined on the side of the petitioner bank herself conceded that the stock was allegedly verified in the absence of the respondent. The author of Ext.P3 stock statement has

neither been examined nor any documents produced in support of the plaint claim in the arbitration case.

3. The amendment of the plaint in the arbitration case shifting the basis of the claim and altering the cause of action is suspicious. The evidence on record does not inspire the confidence of court to sustain Ext.P5 award of the arbitrator. The Kerala Co-operative Tribunal has taken into consideration all the relevant materials to come to a just conclusion that the arbitration case needs to be dismissed. Ext.P7 judgment of the Kerala Co-operative Tribunal is not vitiated by any error of jurisdiction as to warrant interference in exercise of the powers of this Court.

The Writ Petition is dismissed. No costs.

**V.CHITAMBARESH, JUDGE.**

ps/10/2/2015