

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 14681 of 2014 (I)

PETITIONERS:

1. K.C.VARKEY, KAVATTU HOUSE,
KARICODE, MULANTHURUTHY.
2. MOLLY VARKEY,
KAVATTU HOUSE, KARICODE, MULANTHURUTHY.

BY ADV. SRI.P.P.JACOB

RESPONDENTS:

1. THE KADUTHURUTHY CO-OPEATIVE RUBBER MARKETING &
PROCESSING SOCIETY LTD. NO.1397,
KADUTHURUTHY, PIN:686 604,
REPRESENTED BY ITS MANAGING DIRECTOR.
2. THE BOARD OF MANAGEMENT OF THE KADUTHURUTHY
CO-OPERATIVE RUBBER MARKETING & PROCESSING
SOCIETY LTD NO.1397,
KADUTHURUTHY, PIN: 686 604,
REPRESENTED BY ITS PRESIDENT.
3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G),
OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G)
COLLECTORATE, CIVIL STATION, KOTTAYAM, PIN: 686 002.
PIN: 686 002.

R2 BY ADV. SRI.K.C.SANTHOSHKUMAR
R1 BY ADV. SMT.K.K.CHANDRALEKHA
R BY SRI. G. GOPAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-07-2015, ALONG WITH W.P.(C) NOS. 21715, 22820, 22911, 29112
and 34712 of 2014 and 488, 956, 8977, 13568, 16251 of 2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 14681 of 2014 (I)

APPENDIX

PETITIONERS' EXHIBITS :

EXT.P1: TRUE PHOTOCOPY OF THE DEPOSITS RECEIPTS VIDE NO.2063, 2062
AND 2064 DATED 25/1/2013.

EXT.P2: TRUE PHOTOCOPY OF THE REPRESENTATION DATED 27/5/2014 FILED
BEFORE THE THIRD RESPONDENT BY THE PETITIONERS.

RESPONDENTS' EXHIBITS: NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) Nos. 14681, 21715, 22820, 22911, 29112
and 34712 of 2014 and 488, 956, 8977,
13568, 16251 of 2015.

Dated this the 20th day of July, 2015.

JUDGMENT

Heard the learned counsel for the petitioners, the learned Government Pleader and the learned counsel for the Society, apart from perusing the record.

2. The petitioner in W.P.(C) No. 29112 of 2014, a registered Society, but shown in the cause title in the name of its President, has a grievance that Ext.P3 application seeking the leave of the third respondent to sell away a portion of its property has not so far been considered. Compounding the technical problems concerning the locus of the petitioner, the President, having filed the writ petition eonominee, has further shown the Society as the 4th respondent. Be that as it may, since it has not been disputed by none of the parties to the writ proceedings, I deem it appropriate to regard the Society as the petitioner in W.P.(C) No. 29112 of 2014 rather than its President, who is only an office bearer, and who can, at best, represent the interest of the Society. The petitioners in the other

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writ petitions are the depositors of the petitioner Society.

3. The learned Government Pleader has submitted that the 3rd respondent is willing to consider the petitioner's Ext.P3 representation at the earliest. At this juncture, the learned counsel for the petitioners in W.P.(C) Nos. 14681, 21715, 22820, 22911 and 34712 of 2014 and 488, 956, 8977, 13568, 16251 of 2015 have submitted that the petitioners are the depositors, and that the sale proceeds being generated from and out of the sale of the property ,as has been sought in W.P.(C) No. 29112 of 2014, should be earmarked for repaying the amounts under the fixed deposit receipts.

4. The learned counsel for the petitioner in W.P.(C) No. 29112 of 2014, to his credit, has submitted that the petitioner society does not have any objection, if there is any observation or direction from this Court that the depositors shall be paid out of the sale proceeds.

5. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioners and the learned Government Pleader, this Court disposes of the writ petitions through a common judgment to the following effect:

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The 3rd respondent shall consider Ext.P3 representation of the petitioner in W.P.(C) No. 29112 of 2014 concerning the leave to sell the property, as expeditiously as possible, at any rate, within six weeks from the date of receipt of a copy of this judgment. It is further observed that once the petitioner Society realises the sale proceeds subsequent to the permission to be granted by the 3rd respondent, it shall pay the amounts due to the depositors in W.P.(C) Nos. 14681, 21715, 22820, 22911 and 34712 of 2014 and 488, 956, 8977, 13568, 16251 of 2015. If already this Court has disposed of any other writ petitions with the same direction to pay the depositors, while considering the case of the depositors presently before this Court, their claim shall also be considered simultaneously. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

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34712 of 2014 and 488, 956, 8977, 13568, 16251 of 2015.