

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

WP(C).No. 16278 of 2015 (H)

PETITIONER : -

BINDHU ROY, AGED 44 YEARS,
W/O.V.V.ROY, VALIYAPARAMBIL HOUSE,
NAYARAMBLALAMPO.,
ERNAKULAM DISTRICT.

BY ADV.SRI.K.P.JUSTINE (KARIPAT)

RESPONDENTS : -

1. THE MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION,
TRANSPORT BHAVAN,EAST FORT,
THIRUVANANTHAPURAM 695 023.
2. THE FINANCIAL ADVISOR AND CHIEF ACCOUNTS OFFICER,
KERALA STATE ROAD TRANSPORT CORPORATION,
TRANSPORT BHAVAN,EAST FORT,
THIRUVANANTHAPURAM 695 023.
3. THE SECRETARY,
KARTHEDAM SERVICE CO-OPERATIVE BANK LTD.NO.123,
MALIPPURAM PO, ERNAKULAM DISTRICT
4. SMT.SANTHINI UNNIKRISHNAN
W/O.LATE SRI.C.T.UNNIKRISHNAN (CONDUCTOR, KSRTC,
ERNAKULAM DEPOT, EXPIRED ON 13.3.2015),
RESIDING AT NAMBRATHIL THARAYIL, NAYARAMBALAMPO.,
ERNAKULAM DISTRICT.

BY ADV.SRI.M.GOPIKRISHNAN NAMBIAR, SC, KSRTC
R3 BY ADV.SRI.E.C.BINEESH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
25-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 16278 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF THE RECECOVERY NOTICE DATED 7.6.14 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P2 : TRUE COPY OF THE AGREEMENT DATED 18.9.12 EXECUTED BETWEEN THE PETITIONER AND LATE SRI.UNNIKRISHNAN AND ENGLISH TRANSLATION.

EXHIBIT P3 : COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE MANAGING DIRECTOR, KERALA STATE ROAD TRANSPORT CORPORATION, THIRUVANANTHAPURAM.

RESPONDENTS' EXHIBITS : -

EXHIBIT R3(a) : COPY OF THE MORTGAGE DEED DATED 18.9.2012 EXECUTED BY THE PETITIONER AND THE HUSBAND OF THE 4th RESPONDENT.

EXHIBIT R3(b) : COPY OF THE PERSONAL SURETY BOND ALONG WITH HIS SALARY CERTIFICATE ISSUED BY THE ASSISTANT TRANSPORT OFFICER, ERNAKULAM.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 16278 of 2015

Dated this the 25th day of September, 2015

JUDGMENT

The petitioner initially filed the writ petition seeking a direction to the first and second respondents not to disburse the Death Cum Retirement Gratuity (DCRG) of the fourth respondent's husband without deducting an amount of Rs.80,000/-. In elaboration, it can be said that both the petitioner and the husband of the fourth respondent, being the colleagues, obtained housing loans of Rs.1,00,000/- each.

2. Having obtained the housing loan, the petitioner avers, she extended financial help to the fourth respondent's husband by paying the entire amount to him so that he could have his house completed. In that context, the husband of the fourth respondent is said to have executed an agreement in favour of the petitioner undertaking to clear the loan obtained from the third respondent Society in the petitioner's name as well. Before the promise could be fulfilled, the fourth respondent's husband died in harness.

3. The learned counsel for the petitioner has submitted that in the light of the subsequent developments, the need to have the writ petition disposed of on merits is obviated. According to him, the petitioner has already submitted Exhibit P3 representation before the first respondent concerning the undertaking said to have been given by the husband of the fourth respondent to clear the petitioner's loan as well. According to him, if the writ petition is disposed of with a direction to the first respondent to consider petitioner's Exhibit P3 representation, it suffices.

4. The learned Standing Counsel for the first and second respondents has, however, submitted that the Corporation has nothing to do with any private arrangements or agreements. She has, in the end, conceded that the first respondent has no objection to consider the petitioner's Exhibit P3 representation in accordance with law.

5. The learned counsel for the third respondent has also submitted that no *inter se* alleged arrangement involving the petitioner and the husband of the fourth respondent should affect the Bank's right to recover the loan amount from the petitioner.

6. Be that as it may, this Court does not intend to go in to the merits of the matter.

In the facts and circumstances, having regard to the submissions of the learned counsel for the petitioner, the learned Standing Counsel for respondents 1 and 2, as well as the learned counsel for the third respondent, this Court, without expressing any opinion on the merits of the matter, disposes of the present writ petition with a direction to the first respondent to consider Exhibit P3 representation of the petitioner in accordance with law, after issuing notice to the petitioner and the fourth respondent, and pass appropriate orders thereon as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

No order as to costs.

DAMA SESHADRI NAIDU
JUDGE

DMR/-