

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

WP(C).No. 16789 of 2015 (W)

PETITIONER:

THUMBETHADI NARAYANAN AGED 62 YEARS
S/O.PARANGODAN, AMMATHIL VEEDU, VANIYAMBALAM
PORUR (PO) MALAPPURAM

BY ADV. SMT.SANGEETHA LAKSHMANA

RESPONDENTS:

1. NILAMBUR CO-OPERATIVE AGRICULTURAL RURAL DEVELOPMENT BANK
NILAMBUR, MALAPPURAM, REPRESENTED BY ITS SECRETARY
2. THE SPECIAL SALE OFFICER
NILAMBUR CO OPERATIVE AGRICULTURAL RURAL DEVELOPMENT BANK
NILAMBUR, MALAPPURAM

R1 BY ADV. SRI.V.RAJENDRAN
R BY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

P1:TRUE COPY OF THE JUDGMENT DT. 13.02.2014 OF THIS HONOURABLE COURT IN WPC.NO.30599/2009.

P2:TRUE COPY OF THE STATEMENT OF ACCOUNTS DT. 06.05.2014 FURNISHED BY THE FIRST RESPONDENT TO THE PETITIONER.

P3:TRUE COPY OF THE REPRESENTATION DT. 20.05.2014 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.

P4:TRUE COPY OF THE REPRESENTATION DATED 11.07.2014 SUBMITTED BY THE PETITIONER BEFORE THE JOINT REGISTRAR OF CO OPERATIVE SOCIETY, MALAPPURAM.

P5:TRUE COPY OF THE LETTER DT. 20.08.2014 SERVED ON THE PETITIONER BY THE JOINT REGISTRAR (GENERAL) CO OPERATIVE SOCIETY, MALAPPURAM.

P6:TRUE COPY OF THE LETTER DT. 27.02.2015 OF THE FIRST RESPONDENT TO THE PETITIONER.

P7:TRUE COPY OF THE RECOVERY SLIP DT. 16.12.2014 ISSUED TO THE PETITIONER UPON LOAN NO.869/PL BY THE FIRST RESPONDENT.

P8:TRUE COPY OF THE RECOVERY SLIP DT. 16.12.2014 ISSUED TO THE PETITIONER UPON LOAN NO.476/HL BY THE FIRST RESPONDENT.

P9:TRUE COPY OF THE ORDER DATED 07.04.2015 OF THE HONOURABLE KERALA CO OPERATIVE OMBUSMAN, THIRUVANANTHAPURAM, IN COM.NO.467/2014.

P10:TRUE COPY OF THE MEDICAL CERTIFICATE DT. 27.04.2015 ISSUED BY THE DIALIFE DIABETIC CENTRE, MALAPPURAM.

P11:TRUE COPY OF THE MEDICAL CERTIFICATE DT. 29.04.2015 ISSUED BY THE SREEDHAREEYAM AYURVEDICA EYE HOSPITAL & RESERCH CENTRE, ERNAKULAM.

P12: TRUE COPY OF THE REPRESENTATION DT. 03.08.2015 ALONG WITH THE RECEIPT, SENT BY THE PETITIONER TO THE FIRST RESPONDENT.

RESPONDENTS' EXHIBITS:

EXT.R1(a): TRUE COPY OF THE LETTER DATED 22.06.2015 OF THE 1ST RESPONDENT TO THE PETITIONER.

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 16789 of 2015 (W)

Dated this the 10th day of September, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondent Bank, apart from perusing the record.

2. The petitioner, having taken two loans in 1996 from the first respondent Bank, committed default in the course of time. When the respondent Bank initiated recovery proceedings, the petitioner approached the Kerala Co-Operative Ombudsman, Thiruvananthapuram and invited Ext.P9 order.

3. Having remitted a part of the amount as had been agreed to before the learned Ombudsman, the petitioner subsequently filed the present writ petition complaining of discrepancy in the loan account statement.

4. The learned counsel for the petitioner has contended that initially the learned Ombudsman, after providing certain concessions to the petitioner, directed him to pay an amount of ₹ 8,74,420/- to close the two loan accounts. The learned Ombudsman also seems to have instructed the petitioner to remit

30% of the outstanding amount on or before 18.12.2014, which direction the petitioner has complied with.

5. The learned counsel for the petitioner strenuously contends that though the present outstanding amount should be below ₹ 5,00,000/-, the respondent Bank has issued Ext.R1(a) demanding repayment of ₹6,69,089/- as on 11.03.2015. It is the singular contention of the learned counsel for the petitioner that in response to Ext.R1(a), the petitioner has already submitted Ext.P12 representation before the respondent Bank, and that before the petitioner could re-pay the rest of the outstanding amounts, respondent Bank ought to pass appropriate orders on Ext.P12 quantifying the outstanding dues, finally.

6. The learned counsel for the first respondent Bank has submitted that the respondent Bank is willing to consider Ext.P12 representation and pass appropriate orders before it could demand the payment of the balance amount in the loan accounts.

7. In the facts and circumstances, having regard to the respective submissions of the learned Counsel for the petitioner and the learned counsel for the respondent Bank, this Court disposes of

the writ petition with a direction to the first respondent to consider the petitioner's Ext.P12 representation in accordance with law and pass appropriate orders thereon, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment.

It is, however, made clear that this Court has not entered into the merits of the matter and it is entirely for the respondent Bank to consider the claim of the petitioner in Ext.P12 as regards the alleged discrepancy in the outstanding amounts shown by the Bank in Ext.R1 (a) demand notice. It is further made clear that once the respondent Bank passes an order on the petitioner's Ext.P12 representation, it is at liberty to take further steps to recover the amounts it thus quantifies as outstanding in the petitioner's loan account.

sd/- DAMA SESHADRI NAIDU, JUDGE.

