

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

WP(C).No. 16865 of 2015 (G)

PETITIONERS:

1. THE ANJARAKANDY FARMERS SERVICE
CO-OPERATIVE BANK LTD, NO.1141, P.O MAMBA,
KANNUR 670 611 REP. BY ITS MANAGING DIRECTOR
JAYAN T.
2. K.P LOHITHAKSHAN, CONVENOR, DISCIPLINARY ACTION
SUB COMMITTEE, THE ANJARAKANDY FARMERS SERVICE
CO-OPERATIVE BANK LTD NO 1141, P.O MAMBA,
KANNUR 670 611.

BY ADV. DR.K.P.PRADEEP

RESPONDENTS:

1. THE STATE OF KERALA REP. BY THE SECRETARY,
DEPARTMENT OF CO-OPERATION, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM 695 001.
2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
DEPARTMENT OF CO-OPERATION, GOVT. OF KERALA,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM 695 001.
3. KRISHNAN M (FORMER CHIEF ACCOUNTANT),
S/O KUNHAMBU, "THAMP", KUDUKKIMETTA,
P.O EACHUR, KANNUR 670 591.
4. THE CO-OPERATIVE ARBITRATION COURT, NORTHERN,
DEPARTMENT OF CO-OPERATION, KOZHIKODE.

R3 BY ADV. SRI.C.A.JOSEPH

R1, R2 & R4 BY GOVT. PLEADER SRI.G.GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 16865/2015

PETITIONER'S EXHIBITS:

EXT. P1 TRUE COPY OF THE COMMON ORDER DATED 08.02.2013 IN ARC 76/2011 AND ARC 89/2011 ISSUED BY THE CO-OPERATIVE ARBITRATION COURT (NORTHERN), KOZHIKODE, THE 4TH RESPONDENT

EXT. P2 TRUE COPY OF THE COMMON ORDER DATED 28.11.2013 IN APPEAL NO.26/2013 AND 28.2013 ISSUED BY THE KERALA CO-OPERATIVE TRIBUNAL AT THIRUVANANTHAPURAM

EXT. P3 TRUE COPY OF THE JUDGMENT DATED 21.11.2014 IN WPC 3205/2014

EXT. P4 TRUE COPY OF THE RESOLUTION NO.DBR NO.12 OF 27/13-14 DATED 27.3.2014 OF THE MANAGING COMMITTEE OF THE 1ST PETITIONER

EXT. P4(a) TRUE ENGLISH TRANSLATION OF EXT. P4 DOCUMENT

EXT. P5 TRUE COPY OF THE ORDER NO.B2-257/2013-14 DATED 29.03.2014 ISSUED BY THE PRESIDENT OF THE 1ST PETITIONER

EXT. P5(a) TRUE ENGLISH TRANSLATION OF EXT. P5 DOCUMENT

EXT. P6 TRUE COPY OF THE ORDER DATED 6.5.2015 IN IA NO.64/2015 IN ARC 89/2011 ISSUED BY THE CO-OPERATIVE ARBITRATION COURT (NORTHERN), KOZHIKODE, THE 4TH RESPONDENT

RESPONDENT'S EXHIBITS:

EXT.R3(a) TRUE COPY OF THE SERVICE BOOK OF THE PETITIONER'S

EXT.R3(b) TRUE COPY OF THE LETTER DATED 17.01.2015 ISSUED BY THE BANK TO THE PETITIONER

EXT.R3(c) TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.R3(b)

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.16865 of 2015 G

Dated this the 4th day of September, 2015

JUDGMENT

Heard the learned counsel for the petitioners and the learned Government Pleader for respondents 1, 2 and 4, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the principal grievance of the petitioners is that the fourth respondent, the Co-operative Arbitration Court, passed Exhibit P6 order in I.A.No.64/2015 in A.R.C.No.89/2011 without notice to them. It appears that through the said order the fourth respondent has directed the petitioners to pay an amount of ₹ 31,12,951/- to the third respondent as backwages.

3. The learned counsel for the respective parties have agreed that Exhibit P6 order may be set aside and the matter

be remanded to the fourth respondent for fresh adjudication after notice to the petitioners.

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, sets aside Exhibit P6 order and remands the matter to the fourth respondent to be decided on merits.

Given the submission made by the learned counsel for the petitioner that the fourth respondent may consider as a preliminary issue the very maintainability of the interlocutory application, it is made clear that it is for the petitioners to raise all legally permissible pleas before the fourth respondent and invite a finding thereof. Needless to observe that the fourth respondent shall consider the issue as expeditiously as possible.

Dama Seshadri Naidu, Judge

tkv