

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 14TH DAY OF SEPTEMBER 2015/23RD BHADRA, 1937

WP(C).No. 19040 of 2014 (D)

PETITIONER(S):

**C.RADHAKRISHNA PILLAI
RETIRED SECRETARY
ACHAN KOVIL SERVICE CO-OPERATIVE BANK, Q-501
ACHAN KOVIL, PIN-689 696.**

BY ADV. SRI.G.D.PANICKER

RESPONDENT(S):

**1. ACHAN KOVIL SERVICE CO-OPERATIVE BANK - Q 501
REPRESENTED BY THE ADMINISTRATOR, ACHAN KOVIL P.O.
VIA PIRAVANTHOOR, PIN-689 696.**

**2. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES(GENERAL)
KOLLAM, CIVIL STATION, PIN-691 013.**

**3. ASSISTANT REGISTRAR (GENERAL)
CO-OPERATIVE SOCIETIES, PUNALLOOR, PIN-691 305.**

**4. GENERAL MANAGER
KOLLAM DISTRICT CO-OPERATIVE BANK, CHINNAKKADA
KOLLAM-691 013.**

**5. SENIOR BRANCH MANAGER
KOLLAM DISTRICT CO-OPERATIVE BANK, BRANCH PUNALLOOR
PIN-691 305.**

**R4-R5 BY ADV. SRI.T.R.HARIKUMAR, SC, KOLLAM DISTRICT COOPERATIVE
BANK LTD.**

R2-R3 BY SRI RAFEEQ V.K., GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 19040 of 2014 (D)

APPENDIX

PETITIONER(S)' EXHIBITS :

P1 : COPY OF THE APPOINTMENT ORDER DTD.26.9.1985.

P2 : COPY OF RESOLUTION DTD.20.5.2013.

P3 : COPY OF THE AUDIT CERTIFICATE DTD.8.1.2013.

P4 : COPY OF THE JUDGMENT IN WPC NO.16387/2013, DTD.2.12.2013.

P5 : COPY OF THE NOTICE DTD.19.12.2013.

P6 : COPY OF THE STATEMENT DTD.27.12.2013.

P7 : COPY OF THE ORDER DTD.27.12.2013.

P8 : COPY OF THE CHEQUE DTD.29.4.2014.

P9 : COPY OF THE LETTER DTD.5.5.2014.

P10: COPY OF THE LETTER DTD.4.6.2014 ADDRESSED TO THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS: N I L

//TRUE COPY//

PA. TO JUDGE

JV

ANIL K. NARENDRAN, J.

**-----
W.P.(C) Nos.19040 and 26658 of 2014
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Dated this the 14th day of September, 2015

JUDGMENT

W.P.(C). No.26658/2014

This writ petition is filed by the Kollam District Co-operative Bank seeking a writ of certiorari to quash Ext.P3 order dated 27.12.2013 of the 1st respondent and seeking a writ of mandamus commanding the 1st respondent to reconsider the claim of the petitioner Bank and pass appropriate orders within a time limit fixed by this Court.

2. Going by the averments in this writ petition, the petitioner Bank is financed by NABARD and the Kerala State Co-operative Bank. The 2nd respondent namely the Achan Kovil Service Co-operative Bank Limited is a primary Co-operative Bank. The 3rd respondent was working as Secretary of the 2nd respondent Bank, who retired from service on 30.05.2009. The 3rd respondent filed W.P.(C). No.16387/2013 before this Court claiming retirement benefits from the 2nd respondent Bank. The 2nd respondent Bank is managed by the Administrative Committee, as per Resolution No.15 dated 20.05.2013. The land

and buildings owned by the 2nd respondent Bank had already been sold in auction for a sum of Rs.11,12,000/- and Rs.7,40,146/- was remitted to the Pension Board towards pension contribution and the balance amount of Rs.3,16,243/- is deposited in its savings bank account with the Punaloor Branch of the petitioner Bank.

3. By Ext.P1 judgment, this Court disposed of W.P.(C). No.16387/2013 filed by the 3rd respondent, by directing the Joint Registrar (General) of Co-operative Society, Kollam, the 1st respondent herein, to consider as to how the amounts kept in deposit in the petitioner Bank in the account maintained by the 2nd respondent Bank is to be disbursed. The 1st respondent was directed to determine the dues payable to the Government as also that payable to the 3rd respondent herein and thereafter, adjust the same proportionately from the amounts deposited with the Punalur Branch of the petitioner Bank. The 1st respondent was directed to pass appropriate orders within a period of one month from 17.12.2013. It was also ordered that the Branch Manager of the Punalur Branch of the petitioner Bank shall comply with the orders passed by the 1st respondent.

4. The petitioner Bank would contend that the 2nd

respondent Bank availed altogether 25 loans from it for a total amount of Rs.11,72,318/-, which was not repaid and thus an amount of Rs.11,72,318/- is due towards principal and Rs.23,04,782/- is due towards interest till 31.03.2014, which is evident from Ext.P2 statement. Pursuant to the direction contained in Ext.P1 judgment, the 1st respondent issued Ext.P3 order by which an amount of Rs.2,37,083/- was ordered to be disbursed to the Government and the remaining amount of Rs.1,05,100/- to the 3rd respondent, proportionately. It is aggrieved by Ext.P3 order passed by the 1st respondent, the petitioner Bank is before this Court in this writ petition seeking various reliefs.

5. A counter affidavit has been filed on behalf of the 3rd respondent contending that there is absolutely no illegality or irregularity in Ext.P3 order passed by the 1st respondent and that it is only in compliance with the specific directions of this Court in Ext.P1 judgment the 1st respondent has issued Ext.P3 order.

6. I heard the arguments of the learned counsel for the petitioner, the learned Government Pleader appearing for the 1st respondent and also the learned counsel appearing for the 3rd respondent.

7. As borne out from the pleadings and documents on record, Ext.P3 of the 1st respondent is one issued pursuant to the specific direction issued by this Court in Ext.P1 judgment, by which the 1st respondent was directed to consider as to how the amounts kept in deposit in the petitioner Bank in the account maintained by the 2nd respondent Bank has to be disbursed. The 1st respondent was further directed to determine the dues to the Government as also that payable to the 3rd respondent herein and thereafter, adjust the same proportionately from the amounts deposited in Punalur Branch of the petitioner Bank. In the absence of any challenge made by the petitioner Bank, Ext.P1 judgment has attained finality. When the 1st respondent issued Ext.P3 order in terms of the specific direction contained in Ext.P1 judgment, the petitioner Bank cannot now contend that the said order passed by the 1st respondent is illegal or in any manner prejudicially affects its rights.

In such circumstances, the challenge made against Ext.P3 order cannot be sustained. In the result, this writ petition fails and the same is dismissed.

W.P.(C). No.19040/2014

This writ petition is filed by the 3rd respondent in W.P.(C)

No.26658/2014 seeking implementation of Ext.P7 order dated 27.12.2013 of the 2nd respondent (same as Ext.P3 in W.P.(C). No.26658/2014) and seeking an order directing the senior Branch Manager of Kollam District Co-operative Bank, Punalur the 5th respondent to permit him to encash the cheque for Rs.1,05,100/- issued in terms of Ext.P7 order passed by the 1st respondent.

In view of the dismissal of W.P.(C). No.26658/2014, this writ petition is disposed of directing the 5th respondent to permit the petitioner to encash the cheque for Rs.1,05,100/- issued by the 1st respondent in terms of Ext.P7 order, within a period of three weeks from the date of receipt of a certified copy of this judgment.

JV

sd/-
ANIL K. NARENDRAN,
JUDGE