

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 19082 of 2015 (I)

PETITIONERS:

1. GEETHA R., W/O.PURUSHOTHAMAN,
GOVINDA VILASAM, IRUMPANANGAD P.O.,
EZHUKONE, KOLLAM 691 505.
2. PURUSHOTHAMAN, GOVINDA VILASAM,
IRUMPANANGAD P.O., EZHUKONE, KOLLAM 691 505.

BY ADVS.SRI.C.HARIKUMAR
SMT.C.B.ANUROOPA
SRI.RENJITH RAJAPPAN

RESPONDENTS:

1. SPECIAL SALE OFFICER, KERALA STATE CO-OPERATIVE
HOUSING FEDERATION (HOUSE FED), REGIONAL OFFICE,
VANCHIYUR P.O., THIRUVANANTHAPURAM 695 035.
2. KOTTARAKKARA TALUK HOUSING CO-OPERATIVE SOCIETY
LTD NO. Q 451, KOTTARAKKARA P.O., KOLLAM 691 506
REPRESENTED BY ITS SECRETARY.

R2 BY ADVS. SRI.ASOK M.CHERIAN
SRI.T.R.RENJITH
SRI.R.ROHITH
SRI.K.JANARDHANA SHENOY

R1 BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 19082 of 2015 (I)

PETITIONER'S EXHIBITS:

EXHIBIT P1- A TRUE COPY OF THE MEDICAL RECORD OF THE 2ND PETITIONER FROM THE SREE CHITRA TIRUNAL INSTITUTE FOR MEDICAL SCIENCE AND TECHNOLOGY, THIRUVANANTHAPURAM.

EXHIBIT P2: A TRUE COPY OF THE LETTER DATED 21.10.2013 OF THE SECOND RESPONDENT ALONG WITH ENGLISH TRANSLATION

EXHIBIT P3: A TRUE COPY OF THE LETTER OF THE 2ND RESPONDENT DATED 30.12.2013 ALONG WITH ENGLISH TRANSLATION

EXHIBIT P4- A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS DATED 26.12.2013 ALONG WITH ENGLISH TRANSLATION

EXHIBIT P5: A TRUE COPY OF THE NOTICE ISSUED TO THE 1ST PETITIONER BY THE 1ST RESPONDENT DATED 04.1.2014 ALONG WITH ENGLISH TRANSLATION

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.19082 of 2015 I

Dated this the 20th day of November, 2015

JUDGMENT

The petitioner borrowed ₹ 86,000/- from the respondent Bank in 1996 and thereafter committed default. With a view to recover the loan, in the course of time, the Bank filed an ARC and obtained an award in 1999. Having laid execution, eventually the respondent Bank brought the mortgaged property in the auction held on 21.10.2013.

2. As the record reveals, in the absence of any other bidder, the respondent Bank itself emerged successful in purchasing the property. Later, on 06.01.2015, the Joint Registrar confirmed the sale.

3. Initially—though after passing of the award—the petitioner submitted representations to the respondent Bank seeking the benefit of a particular Scheme which did not apply to the petitioner. The fact remains that he has

never chosen to question ARC or even the auction proceedings until the sale was confirmed in favour of the respondent Bank. Recently in the light of the fact that the Government introduced Aswas Scheme in 2015, once again the petitioner renewed his request to extend the benefit under the Scheme.

4. In this context, in response to the submissions made by the learned counsel for the petitioner, the learned counsel for the respondent Bank has submitted that the Aswas Scheme 2015 could not be applied to the petitioner because the transaction came to an end in 2013 when the respondent Bank purchased the property in auction, and later on 06.01.2015 when the same was confirmed. According to him, once the sale has been confirmed, the question of the respondent Bank's considering the case of the petitioner in the light of any subsequent Scheme introduced by the Government does not arise.

5. I find sufficient force in the submissions of the learned counsel for the respondent Bank. The grievance of the petitioner, if any, in the light of efflux of time and march of events has become stale and cannot be entertained by the Court.

Accordingly, the writ petition is dismissed. No order as to costs.

Dama Seshadri Naidu, Judge

tkv