

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

WP(C).No. 37345 of 2003 (U)

PETITIONER:

ENANELLOOR SERVICE CO-OPERATIVE BANK
LTD. NO.1447, AYAVANA P.O., MUVATTUPUZHA - 686 676.
REPRESENTED BY ITS PRESIDENT.

BY ADVS.SRI.C.ANIL KUMAR
SRI.MANU GOVIND

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
CO-OPERATION © DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. JOINT REGISTRAR (AUDIT),
ERNAKULAM.

R,R1 & 2 BY ADV. SRI. G. GOPAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 37345 of 2003 (U)

: 2 :

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE MEMORANDUM OF APPEAL DATED
27.09.2003 FILED BY THE PETITIONER BEFORE THE 1ST
RESPONDENT.

EXT.P2 : TRUE COPY OF THE ORDER DATED 29.10.2003 ISSUED BY
THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

rv

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 37345 of 2003 (U)

Dated this the 2nd day of July, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned Government Pleader, apart from perusing the record.

2. This writ petition was filed in 2003, precisely 12 years ago. Since the process fee was not paid till 26.09.2014, no service was effected on the second respondent. Today, when the matter is taken up, the learned counsel for the petitioner has submitted that the petitioner is a society and the issue is still relevant.

3. It is to be seen from the record that the second respondent on 18.06.2003 issued an audit report to the petitioner. Aggrieved against the said audit report, the petitioner Society filed a statutory appeal under Section 83(1) of the Kerala Co-Operative Societies Act before the first respondent on 27.09.2003. The appellate authority, however, rejected the appeal through Ext.P2 holding that it was not filed within 60 days in terms of Section 83(2) of the Act. Aggrieved thereby, the petitioner Society has filed the present writ petition.

4. The learned counsel for the petitioner has submitted that

though the audit report was dated 16.08.2003, it was actually served on the petitioner on 11.08.2003. According to him, the filing of the statutory appeal on 27.09.2003 is well within the time.

5. The learned Government Pleader, to his credit, has submitted that Ext.P2, in fact, has not referred to the issue when the audit report was served on the petitioner. If the petitioner's contention that it was served on 27.09.2003 were to be accepted, the appeal could be said to be within time.

6. In the facts and circumstances, Ext.P2 is set aside. Consequently, the first respondent is directed to consider Ext.P1 appeal on merits, if the cause still survives.

With the above direction, the writ petition is allowed. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

rv

