

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 25550 of 2010 (P)

PETITIONER :

M.V.SARASAMMA, AGED 55 YEARS,
W/O.LATE V.L.RAMACHANDRAN PILLAI, VAZHAVELIL HOUSE,
ERAMALLIKKARA MURI, THIRUVANVANDOOR VILLAGE,
CHENGANNUR TALUK.

BY ADVS.SRI.S.JAYAKRISHNAN
SRI.S.SUBHASH CHAND

RESPONDENT(S):

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1. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
ALAPPUZHA-688 001.
 2. THE SECRETARY, THE UMayATTUKARA
SERVICE CO-OPERATIVE BANK LTD.NO.499,
KALLISSERY P.O., CHENGANNUR-689 124.

***ADDL.R3 IMPEADED**

*Addl.R3. UMayATTUKARA SERVICE CO-OPERATIVE BANK LTD NO.499,
KALLISSERRY P.O., CHENGANNUR
REP. BY ITS SECRETARY, PIN -689 124.

*ADDL. R3 IS IMPEADED AS PER ORDER DATED 10/01/2014 IN IA.NO. 23/2014.

R1 BY SR GOVERNMENT PLEADER SMT. M.J.RAJASREE
R2 & ADDL.R3 BY ADV. SRI.GEORGE POONTHOTTAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27-02-2015, THE COURT ON 06-03-2015 DELIVERED
THE FOLLOWING:

sts

WP(C).NO.25550/2010

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE STATEMENT ISSUED BY THE BANK DATED 30/10/2005**
- P2 COPY OF THE JUDGMENT DATED 23/6/2009 IN WP(C).NO.17371/2009.**
- P3 COPY OF THE ORDER NO.CRP(2) 3534/2009 DATED 19/8/2009**
- P4 COPY OF THE DECREE IN ARC NO.58/2001 DATED 25/9/2003**
- P5 COPY OF THE DECREE IN ARC NO.61/2001 DATED 7/10/2003**
- P6 COPY OF THE NOTICE DATED 1/7/2005**
- P7 COPY OF THE ORDER IN CRL.M.C.NO.2345/2005 DATED 13/2/2009**
- P8 COPY OF THE REPRESENTATION DATED 17/2/2010**

RESPONDENT'S EXHIBITS:

- R2(A) COPY OF THE REPLY SUBMITTED BY THE PETITIONER'S HUSBAND ON 7/12/1999**
- R2(B) COPY OF THE REPLY DATED 25/1/2000**
- R2(C) COPY OF THE ORDER OF SUSPENSION NO.341/99-2000 DATED 20/3/2000**
- R2(D) COPY OF THE AGREEMENT DATED 29/4/2000**

/TRUE COPY/

P.S.TO.JUDGE

sts

A.M. Shaffique, J.

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W.P (C) No. 25550 of 2010

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Dated this, the 4th day of March, 2015.

J U D G M E N T

The writ petition is filed seeking for a direction to the respondents to disburse to the petitioner all the retirement benefits due to her late husband and for certain other reliefs.

2. The facts involved in the writ petition would disclose that V.L. Ramachandran Pillai, while working as Attender under the Umayattukara Service Co-operative Bank Ltd., expired on 24.3.2000. At the time of death, the deceased was entitled to get gratuity, provident and other benefits, which would come to Rs. 2,60,531/- as evident from Ext. P1 dated 30.10.2005. Since terminal benefits were not paid, the petitioner approached this Court filing W.P (C) No. 17371/2009 and by judgment dated 23.6.2009, this Court directed the Joint Registrar of the Co-operative Society to consider the claim of the petitioner with notice to the Bank and to pass appropriate orders. The Joint Registrar, after conducting an enquiry in the matter, by proceedings dated 19.8.2009, produced as Ext. P3, observed that the petitioner was entitled to the retirement benefits of late V.L. Ramachandran Pillai after adjusting the amounts payable by the deceased to the Bank, on the Bank taking appropriate legal steps. In fact, it was inter alia

contended by the Bank that an amount of Rs. 13,26,896/- was due to the Bank of which Rs. 4,08,650/- was the principal amount and Rs. 9,18,246/- was the interest. Ext. P3 has become final.

3. Petitioner submits that certain proceedings had been taken by the Bank against the deceased for recovery of amount and the total amount thus payable as per the awards passed in such cases would come to Rs. 4,59,918/- and since the amount was not paid, the property mortgaged was sold in auction and was purchased by the Bank for the debt payable by the legal heirs of the deceased. It is therefore the contention of the petitioner that there is no legal proceedings now pending by which liability has been cast upon the deceased or his legal heirs, whereas even as on date, the retirement benefits were never adjusted towards actual amount due by way of any award or decree nor has any amount been paid.

4. Counter affidavit has been filed by the Bank inter alia contending that the deceased was involved in certain transactions by which he had availed loan in the name of his relatives and the said amounts had been misappropriated as a result of which he was suspended from service. The legal heirs were informed about the liabilities and they executed an agreement on 29.4.2000 permitting the Bank to realise the amount

from the movable and immovable assets. The Bank proceeded against the property mortgaged by the petitioner's husband pursuant to a decree passed and the bank purchased the property. Further it is stated that an amount of Rs. 13,26,896/- was due to the Bank from the deceased as on 31.7.2008. It is stated that the attempt is to recover the amount without reference to the agreement executed by them.

5. Primarily, the claim of the petitioner is for the retirement benefits due to her as the legal heir of the deceased. By Ext. P3, the Joint Registrar has passed an order directing the Bank to proceed legally against the petitioner for recovery of the amounts and thereafter to adjust the same from the amount payable. The only material available is certain awards passed in favour of the Bank which have already been executed and satisfied. There is no other material to indicate that the Bank had proceeded legally against the petitioner for recovery of any amount which they claim is due from the deceased. Under such circumstances, in the absence of any such award or order, it may not be possible for the Bank to still contend that retirement benefits are not payable to the petitioner. There is no dispute regarding the question of retirement benefits payable to the petitioner as legal heir of the deceased as evident from Ext. P1. In fact, no amount of gratuity

or provident fund could have been retained until such time. No adjustment has been made by the Bank with reference to the retirement benefits as stated in Ext. P3. Under such circumstances, I am of the view that the petitioner is entitled to receive the amount stated in Ext. P1.

6. There is a claim for interest also. But, having regard to the fact that Ext. P3 order has been passed on 19.8.2009 and this writ petition is filed only on 12.8.2010, I am of the view that the petitioner is entitled to interest only from the date of filing the writ petition.

Accordingly, this writ petition is allowed. The additional 3rd respondent is directed to pay the petitioner an amount of Rs.2,60,531/- with interest @ 9% p.a. from 12.8.2010 till date of payment. The amount shall be paid within a period of two months from the date of receipt of a copy of this judgment.

Sd/-

A.M. Shaffique, Judge.

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