

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 22131 of 2014 (N)

PETITIONER:

**JOSEPH, AGED 64 YEARS
S/O.CHACKO, RESIDING AT ALAPPADAN HOUSE, PLAZID AVENUE
NADUTHARA, THRISSUR - 680 751.**

BY ADV. SRI.JACOB CHACKO

RESPONDENTS:

- 1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT
CO-OPERATIVE DEPARTMENT
THIRUVANANTHAPURAM - 695 001.**
- 2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
THRISSUR - 680 001.**
- 3. THE SOUTH INDIAN BANK OFFICER CO-OPERATIVE HOUSING
SOCIETY LTD
NO.R-688 REPRESENTED BY ADMINISTRATOR THE ASSISTANT
REGISTRAR OF CO-OPERATIVE SOCIETIES
THRISSUR - 680 001.**

**R1 & R2 BY GOVERNMENT PLEADER SRI. GIKKU JACOB
R3 BY ADV.SRI.P.A.AUGUSTINE(AREEKATTEL)**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - TRUE COPY OF THE SALE DEED NO. 3637/1990 DT. 10.9.1990 OF THRISSUR SUB REGISTRY.**
- P2 - TRUE COPY OF THE REPRESENTATION DT. 06.5.14 TO THE THIRD RESPONDENT.**
- P3 - TRUE COPY OF THE LAWYER NOTICES DT. 20.6.14 TO THE 3RD RESPONDENT.**
- P4 - TRUE COPY OF THE CERTIFICATE DT. 02.3.12 ISSUED BY THE 3RD RESPONDENT.**
- P5 - TRUE COPY OF THE REPRESENTATION DT. 14.7.14 TO THE 2ND RESPONDENT.**
- P6 - TRUE COPY OF THE REPLY LETTER ISSUED BY THE 2ND RESPONDENT DT. 16.7.14 TO THE PETITIONER.**
- P7 - TRUE COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT DT. 31.7.14**

RESPONDENT(S)' EXHIBITS:-

- R3(a) - TRUE COPY OF THE RELEVANT PAGES OF THE BY-LAW CONTAINING SECTIONS 4(a) AND 28 OF THE 3RD RESPONDENT SOCIETY**

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 22131 OF 2014

Dated this the 20th day of March, 2015

JUDGMENT

The petitioner has ceased to be a member of the third respondent housing society. This is because he has retired from the South Indian Bank Limited on 31.08.2009. The petitioner can continue as an 'A Class' member only if he is an employee of the bank. The petitioner can thereafter continue as a 'B Class' member of the society only if the property is mortgaged to the society. This is evident by a reading of Clause 4 of the bye laws of the third respondent housing society.

2. The petitioner is neither an 'A Class' member nor a 'B Class' member of the society. Clause 28 of the bye laws of the society operates as against a member only. Clause 28 of the bye laws does not fetter the right of the petitioner for sale of his property. There is therefore no necessity to obtain any 'No Objection Certificate' in that regard.

3. Ext. P7 order to the effect that the property can be sold only after the bye laws are amended cannot be stand scrutiny in the eye of law. Ext. P7 order of the Assistant Registrar is accordingly quashed.

Rich encomiums are paid to Adv. Sri. Lindons C. Davis who ably assisted this Court as Amicus Curiae. The writ petition is allowed. No costs.

**V. CHITAMBARESH
JUDGE**

DCS