

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 22847 of 2015 (E)

PETITIONER:

N.PARAMESWARAN, PRESIDENT,
NEYYATTINKARA TALUK KALLUCHETHU THOZHILALI
CO-OPERATIVE SOCIETY LTD. NO.T-663,
PARASSALA P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS:

1. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES,
NEYYATTINKARA, THIRUVANANTHAPURAM - 695 001.
2. K. SADASIVAN, S/O. KUMARAPILLAI,
(M. NO.102), THANCHAMCODE,
MANAKALA VEEDU, KUNNATHUKAL VILLAGE,
KUNNATHUKAL DESOM, NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM DISTRICT - 695 504.

R BY SRI. K.C. VINCENT, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 : TRUE COPY OF THE AWARD DATED 05.07.1995 IN ARBITRATION CASE NO.2151/1994 BEFORE THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES, NEYYATTINKARA.
- EXT.P2 : TRUE COPY OF THE JUDGMENT DATED 04.11.1995 IN APPEAL NO. 97/95 BEFORE THE CO-OPERATIVE TRIBUNAL, THIRUVANANTHAPURAM.
- EXT.P3 : TRUE COPY OF THE REPORT DATED 28.02.2013 SUBMITTED BY THE DIRECTOR OF THE FORENSIC LABORATORY, THIRUVANANTHAPURAM.
- EXT.P4 : TRUE COPY OF THE ARGUMENT NOTE DATED 06.05.2015 FILED BEFORE THE FIRST RESPONDENT.
- EXT.P5 : TRUE COPY OF THE AWARD DATED 11.06.2015 IN ARBITRATION CASE NO.124/95 BEFORE THE COURT OF ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES, NEYYATTINKARA.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 22847 of 2015 (E)

Dated this the 30th day of July, 2015.

JUDGMENT

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

2. The petitioner, the President of the Neyyattinkara Taluk Kalluchethu Thozhilali Co-Operative Society, initially filed an arbitration case before the first respondent against the second respondent on the ground that the second respondent had misappropriated funds, while he was serving as a salesman. When the arbitration case was allowed through Ext.P1, the second respondent laid challenge against the same before the statutory Tribunal and got it remanded through Ext.P2 judgment.

3. As can be seen from the record, on remand the Arbitration Court heard the matter afresh and rendered Ext.P5 award, which is adverse to the petitioner. Aggrieved thereby, the petitioner has approached this Court.

4. In reply to the question about the maintainability of the writ petition, the learned counsel for the petitioner has submitted

that the Arbitration Court has gone beyond Ext.P2 remand order and considered extraneous issues in coming to a wrong conclusion. According to the learned counsel, it does not serve any specific purpose, if the petitioner is driven once again to the appellate Tribunal.

5. There is no gainsaying the fact that initially when the petitioner was successful, the second respondent laid challenge against Ext.P1 arbitration award before the statutory Tribunal, which, in fact, through Ext.P2 judgment, remanded the matter. If at all the petitioner has any grievance that Ext.P5 Arbitration Award went beyond the scope of remand, it is still not his case that the statutory Tribunal lacks jurisdiction to examine the said issue.

6. Expansive as the scope and ambit of the Constitutional remedy under Article 226 of the Constitution of India is, still, I am afraid, once there is an efficacious alternative remedy is available adjudicatory echelons, it cannot be bypassed. Nor can I see any ground established in the writ petition why the statutory Tribunal is not well suited to adjudicate the dispute as a competent appellate forum.

In the facts and circumstances, this Court dismisses the writ petition, leaving it open for the petitioner to pursue his remedies before the statutory appellate Tribunal, if he desires. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

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