

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

WP(C).No. 27309 of 2012 (K)

PETITIONER:

**M.V.NARAYANAN AGED 68 YEARS
EDATHUMMITHAL HOUSE, MEPPAYYOOR P.O.
KOZHIKODE DISTRICT, PIN-673524.**

**BY ADVS.SRI.S.K.SAJU
SRI.A.RANJITH NARAYANAN
SRI.BIJU ABRAHAM (KAIPPANPLACKAL)**

RESPONDENT(S):

- 1. MEPPAYYOOR CO-OPERATIVE HOUSING SOCIETY
MEPPAYYOOR P.O., KOZHIKODE DISTRICT
PIN-673524 REPRESENTED BY ITS SECRETARY.**
- 2. ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL)
ARBITRATOR, MEPPAYYOOR, KOZHIKODE DISTRICT-673524.**
- 3. THE SALE OFFICER
KERALA STATE CO-OPERATIVE HOUSING FEDERATION
KOZHIKODE, CHAKKORATHUKULAM, WEST HILL P.O.
KOZHIKODE-673005.**

**R1 BY ADV. SRI.K.LAKSHMINARAYANAN
BY GOVERNMENT PLEADER SRI. NOUSHAD THOTTATHIL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S) EXHIBITS

EXHIBIT P1: COPY OF THE LOAN SANCTIONING LETTER DT.4-1-2000 ISSUED BY R1.

EXHIBIT P2: TRUE COPY OF THE CIRCULAR NO.2/99 DATED 20-8-1999 ISSUED BY THE KERALA STATE CO-OPERATIVE HOUSING FEDERATION.

EXHIBIT P3A: TRUE COPY OF THE CIRCULAR NO.1/99 DT.27-4-1999 ISSUED BY THE KERALA STATE CO-OPERATIVE HOUSING FEDERATION.

EXHIBIT P3B: TRUE COPY OF THE CIRCULAR NO.2/2000 DT.1-6-2000 ISSUED BY THE KERALA STATE CO-OPERATIVE HOUSING FEDERATION.

EXHIBIT P3C: TRUE COPY OF THE CIRCULAR NO.14/02-03 DT.8-11-2002 ISSUED BY THE KERALA STATE CO-OPERATIVE HOUSING FEDERATION.

EXHIBIT P3D: TRUE COPY OF THE CIRCULAR NO.17/02-03 DT.8-1-2003 ISSUED BY THE KERALA STATE CO-OPERATIVE HOUSING FEDERATION.

EXHIBIT P3E: TRUE COPY OF THE CIRCULAR NO.3/03-04 DT.22-08-2003 ISSUED BY THE KERALA STATE CO-OPERATIVE HOUSING FEDERATION.

EXHIBIT P3F: TRUE COPY OF THE CIRCULAR NO.9/03-04 DT.16-9-2003 ISSUED BY THE KERALA STATE CO-OPERATIVE HOUSING FEDERATION.

EXHIBIT P3G: TRUE COPY OF THE CIRCULAR NO.15/03-04 DT.19-2-2004 ISSUED BY THE KERALA STATE CO-OPERATIVE HOUSING FEDERATION.

EXHIBIT P3H: TRUE COPY OF THE CIRCULAR NO.8/04-05 DT.13-7-2004 ISSUED BY THE KERALA STATE CO-OPERATIVE HOUSING FEDERATION.

EXHIBIT P4: TRUE COPY OF THE CIRCULAR NO.13/2004-05 DT.23-9-2004 ISSUED BY THE KERALA STATE CO-OPERATIVE HOUSING FEDERATION.

RESPONDENTS' EXHIBITS :

EXHIBIT R1(A):COPY OF THE AGREEMENT ENTERED INTO BY THE PETITIONER AND THE RESPONDENTS DATED 12.01.2000.

EXHIBIT R1(B):COPY OF THE AWARD IN ARC 1867/04-05 DATED 28.12.2004.

EXHIBIT R1(C):COPY OF THE ORDER 23.3.2006 PASSED BY THE KERALA CO-OPERATIVE TRIBUNAL, TRIVANDRUM IN RP NO.245/09.

EXHIBIT R1(D):COPY OF THE JUDGMENT IN WP 14011/07 DATED 28.6.2007 ON THE FILE OF THIS HONOURABLE COURT.

EXHIBIT R1(E):COPY OF THE NOTICE DATED 14.7.2008 ISSUED BY THE 1ST RESPONDENT.

WP(C).No. 27309 of 2012

EXHIBIT R1(F):COPY OF THE NOTICE DATED 22.05.2009 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT R1(G):COPY OF THE STATEMENT OF ACCOUNTS MAINTAINED BY THE 1ST RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

SKV

P.V.ASHA, J.

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W.P.(C). No.27309 OF 2012

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Dated this the 9th day of June, 2015

JUDGMENT

The petitioner has approached this court for a direction to the 1st respondent – Meppayur Co-operative Housing Society to re-compute his loan account in accordance with Ext.P3 series of Circulars.

2. According to the petitioner, he had availed a housing loan from the 1st respondent Housing Society. As at present the loan stands paid off fully. His complaint is regarding the rate of interest realised by the society, which according to him is exorbitant and in disregard of circulars issued by Government.

3. The 1st respondent has filed a detailed counter affidavit pointing out the award passed on 28.12.2004 in the ARC.No.1867/2004-05 allowing the 1st respondent to realise a sum of Rs. 1,98,853 along with interest at the rate of 17.5%, from the petitioner, which is produced as Ext.R1 (b) and the order passed on 23.3.2005 by the Co-operative Tribunal in R.P.No.245/2005 dismissing the revision

petition filed by the petitioner, which is produced as Ext.R1 (c). It is also pointed out that the petitioner had earlier approached this court in W.P.(C).14011/2007 and by judgment dated 28.6.2007 – Ext.R1(d)–this court allowed the proposal to pay off the dues in instalments.

4. According to the 1st respondent they have given sufficient reduction while settling and finalising the loan account and as against the total amount of Rs.3,89,905/– due, a sum of Rs.3,46,700/– alone was realised from the petitioner. The petitioner did not choose to mention anything about the filing of the earlier writ petition, in which instalment facility was availed by him, wherein the question of interest is not seen raised or considered. Moreover the directions sought in this Writ Petition is against the Co-operative Housing Society that too regarding rate of interest. 1st respondent has seriously disputed the claims as to rate of interest. The petitioner not only failed to substantiate his case but also suppressed filing of writ petition earlier before this court, in which he could have been sought relief regarding the rate of interest. Moreover

there is not even a plea as to violation of any of his fundamental rights.

In the above circumstances, I do not find any ground to interfere under Article 226 of the Constitution of India. Hence this writ petition fails and is dismissed.

Sd/ –
P.V.ASHA, JUDGE

SKV