

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

WP(C).No. 24355 of 2015 (T)

PETITIONER:

RAHMATH, AGED 33 YEARS,
W/O.KABEER.K.H, VELUTHEDATH HOUSE, H.M.T.COLONY.P.O
KALAMASSERY, KOCHI-683 503.

BY ADV. SRI.ALEXANDER JOSEPH

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF CO-OPERATION, STATE SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
2. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
ERNAKULAM - 11.
3. MUVATTUPUZHA SERVICE CO-OPERATIVE BANK LTD.
NO.E-781, REPRESENTED BY ITS SECRETARY, MARKET.P.O
KEECHERIPADY, MUVATTUPUZHA-686 661.

R3 BY ADV. SRI.K.S.ARUN KUMAR
R3 BY ADV. SRI.M.S.DILEEP
R BY SRI. G. GOPAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

P1 TRUE COPY OF THE RECEIPT DATED 27.11.2013 OF MEDIUM TERM LOAN NO.795 ISSUED BY THE 3RD RESPONDENT IN FAVOUR OF KABEER.K.H.

P2 TRUE COPY OF THE RECEIPT DATED 03.05.2013 IN RESPECT OF M.T.796 ISSUED BY THE 3RD RESPONDENT OF SRI.ABDUL WAHAB.

P3 TRUE COPY OF RECEIPT DATED 03.05.2013 IN RESPECT OF M.T.797 ISSUED BY THE 3RD RESPONDENT IN FAVOUR OF JAUHARA BASHEER.

P4 TRUE COPY OF THE LAWYER NOTICE DATED 20.04.2015.

P5 TRUE COPY OF THE COMPLAINT DATED 07.08.2015 FILED BEFORE THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 24355 of 2015

Dated this the 16th day of September, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondent Bank, apart from perusing the record.

2. The petitioner is said to have stood surety to the loans obtained by three persons; namely Sri. Kabeer K.H., Sri. Abdul Wahab, and Sri.Jauhara Basheer, the first of them being the husband of the petitioner. At the time of the grant of the loans, the petitioner mortgaged her immovable property and deposited the title deeds. Now she has filed the present writ petition ventilating her grievance that the respondent Bank is refusing to accept the entire loan amount from the petitioner and return the title deeds, as well as issue a receipt in petitioner's favour that she has cleared off the loan.

3. In response to the submissions made by the learned counsel for the petitioner, the learned counsel for the respondent Bank has submitted that the respondent Bank has no objection to return the title deeds and also to issue a receipt witnessing the

payment of the amount once the petitioner remits the entire loan amount.

4. At this juncture, this Court has enquired with the learned counsel for the petitioner, why none of the principal borrowers have been made parties to the writ petition. The learned counsel has submitted that Sri. Kabeer K.H is abroad and the loan of Sri. Abdul Wahab has already been cleared, and that only the third borrower remains in India.

5. Given the nature of relief sought by the petitioner, this Court is of the opinion that the principal borrowers, at best, may be proper parties, and that the writ petition can be disposed of even in their absence.

Having regard to the respective submissions of the learned counsel for the petitioner and the learned counsel for the respondent Bank, this Court disposes of the writ petition with a direction to the respondent Bank to accept the remittance from the petitioner and return the title deeds and also a receipt to the effect that the petitioner remitted the amount as full and final settlement of the loan accounts.

Needless to observe that the present arrangement of clearing the loans by the petitioner as a guarantor is not to the prejudice of the principal borrowers, who have not been brought on record in this writ petition.

sd/- DAMA SESHADRI NAIDU, JUDGE.

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