

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

WP(C).No. 28132 of 2013 (N)

PETITIONER : -

DAS, AGED 54 YEARS,
S/O. JOSEPH,
DEEPA BHAVAN, PATTANCHIRA,
KEEZHAROOR P.O.,
THIRUVANANTHAPURAM.

BY ADVS. SRI. R. T. PRADEEP
SRI. P. BIJIMON

RESPONDENTS : -

1. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
(GENERAL), OFFICE OF ASST. REGISTRAR OF CO-OPERATIVE SOCIETIES,
NEYYATTINKARA-695121.
2. THE ARBITRATOR CUM SPECIAL SALE OFFICER,
KERALA STATE CO-OPERATIVE HOUSING FEDERATION,
THIRUVANANTHAPURAM-695001.
3. CHENKAL HOUSING CO-OPERATIVE SOCIETY LTD. NO. T756,
REPRESENTED BY ITS SECRETARY, CHENKAL-695121.
4. SECRETARY,
CHENKAL HOUSING CO-OPERATIVE SOCIETY LTD. NO. T756,
CHENKAL-695121.

R3 & 4 BY ADV. SRI. M. SREEKUMAR
R1 & R2 BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : COPY OF THE LABORATORY REPORT DATED 24.4.2013.

EXHIBIT P2: COPY OF THE BIOCHEMISTRY REPORT OF PETITIONER DATED
24.4.2013.

EXHIBIT P3: COPY OF PRESCRIPTION OF MEDICINE DATED 24.4.2013.

EXHIBIT P4 : COPY OF CLINICAL LABORATORY REPORT OF THE PETITIONER
DATED 27.10.2013.

EXHIBIT P5 : COPY OF NOTICE DATED 12.10.2013 ACCOMPANYING THE AWARD.

EXHIBIT P6 : COPY OF THE AWARD PASSED BY THE 2ND RESPONDENT DATED
30.07.2012 IN ARC NO.971/2012 WARRANT DATED 24.9.2013 IN
M.C.NO.590/2013.

EXHIBIT P7 : COPY OF THE ENVELOPE DATED 14.7.2013.

RESPONDENTS' EXHIBITS :

EXHIBIT R3(a) : TRUE COPY OF THE NOTICE DATED 25.4.2012 ISSUED BY 4th
RESPONDENT TO THE PETITIONER.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 28132 of 2013

Dated this the 10th day of July, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Counsel for the respondents, as well as the learned Government Pleader, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioner, having availed himself of a housing loan for Rs.1,50,000/- on 20.11.2008, in course of time committed default. Pursuant to Exhibit P6 award passed by the learned Arbitrator, in the wake of recovery proceedings initiated by the respondent Bank, the petitioner approached this Court contending that the award was passed *ex parte* without affording an opportunity to the petitioner.

3. The learned counsel for the respondent Bank has, however, strenuously opposed the claims and contentions of the

petitioner. It is his specific contention that the petitioner deliberately avoided service of notice on him and rendered himself *ex parte* before the learned Arbitrator.

4. Be that as it may, eventually the learned counsel for the petitioner, on instructions, has submitted that the petitioner is willing to repay the loan amount in eight equal monthly instalments. On his part, the learned counsel for the respondent Bank has also, to his credit, agreed that the respondent Bank is willing to accept the payment in the agreed instalments, provided there is no further default on the part of the petitioner.

5. In the facts and circumstances, as has been mutually agreed by both the learned counsel for parties on either side, this Court disposes of the writ petition directing the petitioner to repay the outstanding loan amount to the respondent Bank in eight equal monthly instalments beginning from September 2015. Needless to observe, if any default is committed in repaying the loan amount as per the mutually agreed repayment schedule, the respondent Bank is at liberty to proceed further without reference to this judgment.

With the above observation, this writ petition is disposed of. No order as to costs.

DAMA SESHADRI NAIDU
JUDGE

DMR/-