

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

WP(C).No. 27812 of 2015 (B)

PETITIONER:

SARASWATHY,
W/O.LATE RAVEEDNRAN, PANAYARA THEKKETHIL,
KUTHIRAPANTHI PO, THAZHAVA, KARUNAGAPPALLY,
KOLLAM.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS:

1. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
COLLECTORATE, CUTCHERY PO, KOLLAM-691 013.
2. THE THAZHAVA SERVICE CO-OPERATIVE BANK LIMITED NO.Q-160,
SRP MARKET P.O., KARUNAGAPPALLY, KOLLAM DISTRICT-690 539
REPRESENTED BY ITS SECRETARY.
3. THE SPECIAL SALE OFFICER,
KULASEKHARAPURAM SC BANK (GROUP),
THE THAZHAVA SERVICE CO-OPERATIVE BANK LIMITED NO.Q-160
SRP MARKET PO, KARUNGAPPALLY,
KOLLAM DISTRICT-690 539 (THE ASSISTANT REGISTRAR
OF CO-OPERATIVE SOCIETIES,
KARUNAGAPPALLY)

R2 BY ADV. SRI.V.G.ARUN

R2 BY ADV. SRI.T.R.HARIKUMAR

R BY SRI. E.M. ABDUL KHADER, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
08-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS:

P1 : THE TRUE COPY OF THE DEATH CERTIFICATE OF THE PETITIONER'S HUSBAND SRI.RAVEENDRAN ISSUED BY THE SECRETARY, THAZHAVA GRAMA PANCHAYATH.

P2 : THE TRUE COPY OF THE DEATH CERTIFICATE OF THE PETITIONER'S SON SRI.GIREESH, ISSUED BY THE SECRETARY, THAZHAVA GRAMA PANCHAYATH.

P3 : THE TRUE COPY OF THE APPLICATION DT 26-5-2013 SUBMITTED BY THE PETITIONER BEFORE THE MINISTER FOR CO-OPERATION AND THE ORDER.

P4 : THE TRUE COPY OF THE ORDER NO.974/2012 DT 22-4-2013 ISSUED BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT.

P5 : THE TRUE COPY OF THE EX-PARTE AWARD DT 12-12-2014 IN ARBITRATION CASE NO.1106/2014 ISSUED BY THE 3RD RESPONDENT AND ITS ENGLISH TRANSLATION.

P6 : THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DT 1-7-2015.

RESPONDENTS' EXHIBITS:

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 27812 of 2015 (B)

Dated this the 8th day of October, 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, the wife of the original borrower, filed the writ petition challenging Ext.P5 award, inter alia, on the ground that the award was passed after the death of the principle borrower. To be more specific, the principle borrower, the husband of the petitioner, died on 19.01.2012, but the award was passed on 12.12.2012.

3. The learned counsel for the respondent Bank has submitted that the award was passed jointly against the petitioner, who is the surety, and also the original borrower, her husband, who may have died before the award could be passed.

4. At any rate, without contesting the matter on technicalities, the learned counsel for the respondent Bank, evidently on instructions, has accepted the proposal of the learned counsel for the petitioner to receive the loan amount in four months after

reducing the outstanding amount, as well.

5. The learned counsel for the respondent Bank has submitted that the Bank is willing to deduct an amount of ₹ 72,000/- from the total liability, provided the petitioner pays the balance amount in four months.

6. The learned counsel for the petitioner, on the other hand, has agreed to the said proposal.

In the facts and circumstances, 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 giving liberty to the petitioner to pay off the total outstanding amount after deduction of ₹ 72,000/- (Rupees seventy two thousand only), as early as possible, at any rate, not beyond four months.

sd/- DAMA SESHADRI NAIDU, JUDGE.

