

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WP(C).No. 28622 of 2015 (C)

PETITIONERS : -

1. VARKEY GEORGE, CHAKKALAYIL HOUSE, POTHY,
THALAYOLAPARAMBU P.O., KOTTAYAM DISTRICT, PIN - 686 605.
2. MARY GEORGE, W/O. VARKEY GEORGE,
CHAKKALAYIL HOUSE, POTHY, THALAYOLAPARAMBU P.O,
KOTTAYAM DISTRICT, PIN - 686 605.
3. JAIS GEORGE, S/O. VARKEY GEORGE,
CHAKKALAYIL HOUSE, POTHY, THALAYOLAPARAMBU P.O,
KOTTAYAM DISTRICT, PIN - 686 605.
4. DR.P.V. SEBASTIAN, S/O. VARKEY VARKEY,
VILLA ROSA MARIA, DOCTORS GARDEN,
GANDHINAGAR P.O, KOTTAYAM DISTRICT.
5. MARINA SEBASTIAN, W/O.DR.P.V. SEBASTIAN,
VILLA ROSE MARIA, DOCTORS GARDEN,
GANDHINAGAR P.O, KOTTAYAM DISTRICT.

BY ADVS.SRI.T.A.SHAJI (SR.)
SMT.NAMITHAJYOTHISH
SRI.V.VINCENT DIDACOSE
SRI.DARSAN SOMANATH

RESPONDENTS : -

1. JOINT REGISTRAR (GENERAL) OF CO-OPERATIVE SOCIETIES,
KOTTAYAM, PIN - 686 001.
2. KADUTHURUTHY URBAN CO-OPERATIVE RUBBER
MARKETING AND PROCESSING SOCIETY LIMITED NO. 1397,
KADUTHURUTHY - 686 604, KOTTAYAM DISTRICT,
REPRESENTED BY ITS MANAGING DIRECTOR, PIN - 686 604.
3. ASSISTANT REGISTRAR (GENERAL) OF CO-OPERATIVE SOCIETIES,
VAKOM, KOTTAYAM DISTRICT, PIN - 686 141.
4. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO
GOVERNMENT, CO-OPERATIVE DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. P.P. PADMALAYAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS : -

- EXHIBIT-P1 : TRUE COPIES OF THE 3 FIXED DEPOSIT RECEIPTS ISSUED BY THE 2ND RESPONDENT SOCIETY IN THE NAME OF THE 1ST PETITIONER.
- EXHIBIT-P2 : TRUE COPY OF THE JOINT FIXED DEPOSIT RECEIPTS ISSUED BY THE 2ND RESPONDENT SOCIETY IN THE NAME OF THE 1ST AND 2ND PETITIONER.
- EXHIBIT-P3 : TRUE COPIES OF THE 3 FIXED DEPOSIT RECEIPTS ISSUED BY THE \ 2ND RESPONDENT SOCIETY IN THE NAME OF THE 2ND PETITIONER.
- EXHIBIT-P4 : TRUE COPIES OF THE 2 FIXED DEPOSIT RECEIPTS ISSUED BY THE 2ND RESPONDENT SOCIETY IN THE NAME OF THE 3RD PETITIONER.
- EXHIBIT-P5 : TRUE COPIES OF THE 7 FIXED DEPOSIT RECEIPTS ISSUED BY THE 2ND RESPONDENT SOCIETY IN THE NAME OF THE 4TH PETITIONER.
- EXHIBIT-P6 : TRUE COPIES OF THE 7 FIXED DEPOSIT RECEIPTS ISSUED BY THE 2ND RESPONDENT SOCIETY IN THE NAME OF THE 5TH PETITIONER.
- EXHIBIT-P7 : TRUE COPIES OF THE 5 FIXED DEPOSIT RECEIPTS ISSUED BY THE 2ND RESPONDENT SOCIETY IN THE NAME OF THE FATHER OF THE 4TH PETITIONER.
- EXHIBIT-P8 : TRUE COPY OF THE DEATH CERTIFICATE DATED 31/08/2015 ISSUED BY THE SECRETARY, KOTTAYAM MUNICIPALITY.
- EXHIBIT-P9 : TRUE COPY OF THE COMPLAINT DATED 10/09/2014 SUBMITTED BY THE 1ST AND 2ND PETITIONERS BEFORE THE 1ST RESPONDENT, ALONG WITH ITS ENGLISH VERSION.
- EXHIBIT-P10 : TRUE COPY OF THE COMPLAINT DATED 05/08/2015 SUBMITTED BY THE 3RD PETITIONER BEFORE THE 1ST RESPONDENT, WITH ITS ENGLISH VERSION.
- EXHIBIT-P11 : TRUE COPY OF THE COMPLAINT DATED 07/09/2015 SUBMITTED BY THE 4TH AND 5TH PETITIONERS BEFORE THE 1ST RESPONDENT ALONG WITH ITS ENGLISH VERSION.
- EXHIBIT-P12 : TRUE COPY OF THE ORDER DATED 13/05/2010 OF THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 28622 of 2015

Dated this the 04th day of November, 2015

JUDGMENT

All the petitioners, five in number, interrelated, have a common grievance that their fixed deposits with the second respondent Society have not been repaid with interest despite their maturity. Ventilating their grievance, the petitioners have filed the present writ petitions.

2. Sri. T.A. Shaji, the learned Senior Counsel, has drawn my attention to Exhibit P12 dated 13.05.2015 in which the Assistant Registrar, Vaikom, directed the second respondent Society to repay the deposits along with interest forthwith and report compliance to the said authority. According to the learned counsel, despite such peremptory direction from a competent official, the second respondent has remained unresponsive.

3. As can be seen from the record, despite the service of notice, none appeared for the second respondent. To ascertain whether notice has been served on the second respondent, I directed the Registry to track the speed post and report to the Court. In response, the Registry, having tracked the speed

post, filed a report before the Court that the notice had, in fact, been served on the second respondent.

4. Going by the pleadings in the writ petition and the submissions made by the learned Senior Counsel, especially in view of Exhibit P12, I am of the opinion that there is no countervailing material on the part of the second respondent to contradict the claim of the petitioners. Therefore, the second respondent is bound to repay the amounts to the petitioners along with interest, as has been agreed initially at the time of the petitioners making their deposits.

In the facts and circumstances, this Court allows the writ petition, directing the second respondent to repay to the petitioners the matured value of their fixed deposits, as has been reflected in Exhibits P1 to P7, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment. No order as to costs.

DAMA SESHADRI NAIDU
JUDGE

DMR/-