

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.M. SHAFFIQUE

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 34793 of 2014 (Y)

PETITIONER:

SUHARA BEEVI ALIAS RAMLA BEEVI, AGED 55 YEARS
MOWLANA GREENS PAMBANAR P.O, KALLAR-OTTAPPALAM P.O
REPRESENTED BY THE POWER OF ATTORNEY HOLDER
HER HUSBAND ABU LACE
RESIDING AT MOWLANA GREENS PAMBANAR P.O
KALLAR-OTTAPPALAM P.O

BY ADV. SMT.S.A.SHERLY

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY SECRETARY TO DEPARTMENT OF AGRICULTURE
TRIVANDRUM
2. THE MANAGER
STATE BANK OF TRAVANCORE, RECOVERY CELL, ZONAL OFFICE
PANAMBALLI NAGAR, ERNAKULAM 682 036
3. THE BRANCH MANAGER
STATE BANK OF TRAVANCORE, PEERMADE BRANCH 686 530
4. ASSISTANT GENERAL MANAGER
STATE BANK OF TRAVANCORE, REGIONAL OFFICE, THODUPUZHA
IDUKKI DISTRICT

R2-R3 BY ADV. SRI.SATHISH NINAN
SENIOR GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN
SRI.SANTHOSH MATHEW

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-04-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: THE TRUE COPY OF THE NOTICE DATED 24-11-2014

EXHIBIT P2: THE TRUE COPY OF THE RECEIPT OF REMITTANCE DATED 23-08-2008 IN THE KISSAN CREDIT CARD ACCOUNT FOR THE BENEFIT UNDER THE AGRICULTURAL DEBT WAIVER AND DEBT RELIEF SCHEME 2008 GRANTED TO THE PETITIONER

EXHIBIT P3: THE TRUE COPY OF THE RECEIPT OF REMITTANCE DATED 23-08-2008 IN THE AGRICULTURAL TERM LOAN A/C FOR THE BENEFIT UNDER THE AGRICULTURAL DEBT WAIVER AND DEBT RELIEF SCHEME 2008 GRANTED TO THE PETITIONER

EXHIBIT P4: A TRUE COPY OF THE SAID LETTER DATED 07-09-2013 WAS ISSUED FROM THE PEERMADE BRANCH OF SBT

EXHIBIT P5: A TRUE COPY OF THE EXTRACT OF THE BPL RATION CARD

RESPONDENTS' ANNEXURES:

ANNEXURE R2(a) : PHOTOCOPY OF VERIFICATION REPORT DATED 5.6.2013.

ANNEXURE R2(b) : PHOTOCOPY OF THE E-MAIL DATED 13.11.2013 ISSUED BY THE RESERVE BANK OF INDIA.

ANNEXURE R2(c): PHOTOCOPY OF LETTER DATED 5.2.2014 BY THE BANK TO THE PETITIONER.

//TRUE COPY//

P.A. TO JUDGE

smv

A.M. SHAFFIQUE, J.

W.P.(C) No.34793 of 2014

Dated this the 9th day of April, 2015

JUDGMENT

The petitioner challenges Ext.P1 notice and seeks for a direction to respondents 2 to 4 not to initiate recovery proceedings against the petitioner and her assets. It is inter alia submitted that the petitioner had taken certain loan from the State Bank of Travancore. The bank had given benefits under the Agricultural Debt Relief Scheme and accordingly on payment of the amounts payable under the scheme, the accounts were closed. Though the accounts were closed, the petitioner is now faced with Ext.P1 notice dated 24.11.2014 by which the petitioner is called upon to remit an amount of Rs.1,23,000/- with interest.

2. Petitioner impugns the aforesaid notice and submits that the bank has no right to demand the said amount.

3. Statement has been filed by the respondent bank inter alia stating that after an audit being done under the auspicious of Reserve Bank of India with reference to the benefits granted under the Agricultural Debt Relief Scheme, the audit report indicated that petitioner was eligible only for waiver of 25%, provided she remitted 75% of the overdue amount. In such circumstance, the bank had no

option other than to demand from the petitioner the benefit that has given in excess of what she was actually entitled under the scheme.

4. Ext.P1 is the demand notice. If at all the bank is entitled to recover any amount from the petitioner, being a disputed amount the bank can recover the same only if the bank establishes the fact that the petitioner is not entitled to the benefit of the scheme which can be done only by approaching the civil court, so that the petitioner can also raise all contentions necessary for defending such proceedings.

In the light of the aforesaid finding, I do not think that the apprehension expressed by the petitioner on the basis of Ext.P1 demand is justified. Therefore, this writ petition is disposed of leaving open the right of the respondent bank to approach the civil court for appropriate reliefs.

Sd/-
A.M. SHAFFIQUE,
JUDGE

smv