

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

WP(C).No. 37399 of 2015 (Y)

PETITIONER:

ROSAMMA AUGUSTIN, NEERALAKOTIL HOSUE,
THIRUVAMPADY P.O., PAZHUTHURUTH,
NJEEZHOOOR-686 612.

BY ADV. SRI.P.P.JACOB

RESPONDENTS:

1. KADUTHURUTHY CO-OPERATIVE RUBBER MARKETING & PROCESSING SOCIETY LTD.NO.1397, KADUTHURUTHY PIN-686 604 REPRESENTED BY ITS MANAGING DIRECTOR.
2. THE ADMINISTRATIVE COMMITTEE OF KADUTHURUTHY CO-OPERATIVE RUBBER MARKETING & PROCESSING SOCIETY LTD.NO.1397, KADUTHURUTHY PIN-686 604 REPRESENTED BY ITS CONVENOR.
3. THE JOINT REGISTRAR OF CO-OP. SOCIETIES (G), OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES, COLLECTORATE, CIVIL STATION, KOTTAYAM-686 002.

R1 & R2 BY ADV. SRI.K.C.SANTHOSH KUMAR
R3 BY SR.GOV'T. PLEADER SRI.JOSEPH GEORGE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 37399 of 2015 (Y)

PETITIONER'S EXHIBITS:

EXT.P1. TRUE PHOTOCOPY OF THE DEPOSITS RECEIPT ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER

EXT.P2. TRUE PHOTOCOPY OF THE REPRESENTATION DATED 13/11/2015 FILED BEFORE THE 3RD RESPONDENT BY THE PETITIONER

EXT.P3. TRUE PHOTOCOPY OF THE JUDGMENT IN WPC NO.13568/2015 DATED 20/7/2015.

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.37399 of 2015 Y

Dated this the 17th day of December, 2015

JUDGMENT

Earlier, certain persons claiming to be the depositors have filed a batch of writ petitions against the first respondent Rubber Marketing and Processing Society. The gravamen of the grievance of all those persons was that the respondent Society had been in a deep financial crisis and that it proposes to sell away some of its properties to pay off the depositors. In that context, this Court has issued the following directions in that batch of writ petitions:

“The third respondent shall consider Exhibit P3 representation of the petitioner in W.P.(C)No.29112/ 2014 concerning the leave to sell the property, as expeditiously as possible, at any rate, within six weeks from the date of receipt of a copy of this judgment. It is further observed that once the petitioner Society realises the sale proceeds subsequent to the permission to be granted by the 3rd respondent, it shall pay the amounts due to the depositors in W.P.(C)Nos.14681, 21715, 22820, 22911 and 34712 of 2014 and 488, 956, 8977, 13568, 16251 of 2015. If already this Court has disposed of any other writ petitions with the

same direction to pay the depositors, while considering the case of the depositors presently before this Court, their claim shall also be considered simultaneously. No order as to costs.”

2. The petitioner in the present writ petition claims that she has deposited Rs.2,52,084/-, as is evident from Exhibit P1 series of deposit receipts. The learned counsel for the petitioner contends that the petitioner being the depositor should also be given the same relief as was given to the other depositors in Exhibit P3 judgment.

3. The learned counsel for the respondent Bank has submitted that now a new administrative committee, the second respondent, has taken charge and that the writ petition could not be considered without prior notice to it.

4. I am afraid, the contention of the learned counsel for the respondent Society cannot be countenanced. In the first place, the first respondent is the Society which is a legal entity and the Board of Management or an Administrative Committee in its place only represents the

Society; ipso facto, the very Board of Management or the Administrative Committee cannot be treated as a legal entity having an independent right distinct and different from the first respondent Society. Indeed, this Court in Exhibit P3 judgment has directed that after selling its properties, the respondent Society shall pay those depositors who have obtained the judgment. This Court has further observed in Exhibit P3 judgment that if any other person or persons have already obtained similar directions from this Court, their claims should also be simultaneously considered.

5. As it is expected that many more people may have been waiting to have their deposits repaid, it is not in the interest of justice to confer any special benefit on those persons who have approached this Court leaving in the lurch the rest of the depositors who may have had their deposits matured at an earlier point of time.

6. In this context, this Court makes it clear that once the respondent Society has an opportunity to repay the deposits, it shall follow a system of priority taking into account the dates of maturity of the deposits as the reckoning point and ensure that the contractual commitment is honored in full.

With the above observations, this writ petition stands disposed of.

Dama Seshadri Naidu, Judge

tkv