

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 38161 of 2015 (U)

PETITIONER: -

M/S.NJAVALLIL LATEX PRIVATE LIMITED,
HAVING ITS REGISTERED OFFICE AT KAROOR, PALA,
KOTTAYAM DISTRICT,
REPRESENTED BY ITS MANAGING DIRECTOR,
SHRI.ANTONY KURIAN, RESIDING AT NJAVALLIL HOUSE,
KAVALATH ROAD, PALARIVATTOM, ERNAKULAM,
KOCHI-682025.

BY ADVS.DR.GEORGE ABRAHAM
SRI.MATHEW GEORGE VADAKKEL

RESPONDENTS: -

1. THE KADUTHURUTHY CO-OPERATIVE RUBBER MARKETING AND
PROCESSING SOCIETY LTD. NO.1397,
KADUTHURUTHY, PIN:686604,
REPRESENTED BY ITS SECRETARY.
2. THE BOARD OF MANAGEMENT OF THE KADUTHURUTHY
CO-OPERATIVE RUBBER MARKETING & PROCESSING SOCIETY LTD,
NO.1397, KADUTHURUTHY, PIN:686604,
REPRESENTED BY ITS PRESIDENT.
3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES(G),
OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES(G),
COLLECTORATE, CIVIL STATION, KOTTAYAM, PIN-686002.

R3 BY SR. GOVERNMENT PLEADER SRI. JOSEPH GEORGE
R1 & R2 BY SRI.K.C.SANTHOSH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 38161 of 2015 (U)

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF THE AGREEMENT EXECUTED BY THE PETITIONER
WITH THE 1ST RESPONDENT ON 12.07.2013.

EXHIBIT P2 : TRUE COPY OF RECEIPT NO.2241 DATED 09.07.2013.

EXHIBIT P2(1) : TRUE COPY OF RECEIPT NO.2242 DATED 09.07.2013.

EXHIBIT P2(2) : TRUE COPY OF RECEIPT NO.2243 DATED 09.07.2013.

EXHIBIT P2(3) : TRUE COPY OF RECEIPT NO.2244 DATED -09.07.2013.

EXHIBIT P2(4): TRUE COPY OF RECEIPT No. 2245 DATED 09.07.2013.

EXHIBIT P3 : TRUE COPY OF THE COMMUNICATION DATED 09.07.2013 ISSUED
BY THE 1ST RESPONDENT ACKNOWLEDGING RECEIPT OF THE
FIXED DEPOSIT OF RS.50,00,000/-.

EXHIBIT P4 : TRUE COPY OF THE SUIT, ARC NO.248/2015 FILED BY THE
PETITIONER BEFORE THE 3RD RESPONDENT.

EXHIBIT P5 : TRUE COPY OF JUDGMENT DATED 20.07.2015 OF THIS HON'BLE
COURT IN WP(C)NO.29112/2014.

EXHIBIT P6 : TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE
PETITIONER ON 05.08.2015 BEFORE THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A.TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 38161 of 2015

Dated this the 16th day of December, 2015

JUDGMENT

Earlier, certain persons claiming to be 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 propose to sell away some of its properties to pay off the depositors. In that context, this Court has issued in that batch of writ petitions the following directions:

“The third respondent shall consider Exhibit P3 representation of the petitioner in W.P. (C) No. 29112 of 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 he is the biggest depositor having deposited Rs.50,00,000/-, as is evident from Exhibit P2 series of deposit receipts. He contends that all along he has been pursuing the matter before the Arbitration Court, as can be seen from Exhibit P4 docket of the suit in ARC No. 248/2015. The learned counsel for the petitioner has submitted that the petitioner being the biggest depositor should also be given the same relief as was given to other depositors in Exhibit P5 judgment.

3. In response, the learned counsel for the first respondent Bank has submitted that now the second respondent Board of Management has been replaced by an Administrative Committee. The petitioner may have to bring on record the said Administrative Committee.

4. I am afraid, the contention of the learned counsel for the respondent Bank 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 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 P5 judgment has directed that after selling its properties, the respondent Society shall pay those depositors who have obtained the judgment. This Court has also further observed in Exhibit P5 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.

In this context, this Court makes it clear that once the respondent Bank 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