

Roy Jacob Vs. Kerala Co-operative Development Welfare Fund Board

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Court : Kerala

Decided On : Oct-31-2013

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Roy Jacob

Respondent : Kerala Co-operative Development Welfare Fund Board

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN THURSDAY, THE 31^T DAY OF OCTOBER 2013 9TH KARTHIKA, 1935 WP(C).No.900 of 2013 (J) ----- PETITIONER: ----- ROY JACOB, AGED 42 YEARS, S/O.LATE ABRAHAM YACOB, MUNDAKODIYIL HOUSE, POTHANIKADU P.O., KOTHAMANGALAM TALUK, ERNAKULAM DISTRICT. BY ADV. SRI.ALIAS M.CHERIAN RESPONDENTS: ----- 1. KERALA CO-OPERATIVE DEVELOPMENT WELFARE FUND BOARD, GHANDHARI AMMAN KOVIL ROAD, STATUE JUNCTION, THIRUVANANTHAPURAM-695 001, REPRESENTED BY ITS SECRETARY.

2. POTHANIKADU FARMERS CO-OPERATIVE BANK LTD NO.3510, POTHANIKADU P.O., KOTHAMANGALAM TALUK, ERNAKULAM DISTRICT-686 671. R2 BY ADV. SRI.P.V.BABY R1 BY ADV. SRI.NAGARAJ NARAYANAN R1 BY ADV. SRI.SAIJO HASSAN R1 BY ADV. SRI.BENOJ C AUGUSTIN R1 BY ADV. SRI.I.J.AUGUSTINE R1 BY ADV. SRI.SEBIN THOMAS R1 BY ADV.

SMT.J.KASTHURI R1 BY ADV. SRI.S.P.DEEPAK R1 BY ADV. SRI.PRATHAP PILLAI R1 BY ADV. SRI.P.E.SAJAL R1 BY ADV. SRI.SWATHY DAS BY ADV. SRI.T.M.RAMAN KARTHA, SC, KERALA CO-OPERATIVE DEVELOPMENT WELFARE FUND BOARD THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/10-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 900 of 2013 (J) APPENDIX PETITIONER'S EXHIBITS: EXHIBIT P1. TRUE COPY OF KERALA OF THE BYE-LAW OF CO-OPERATIVE DEBT RELIEF PROGRAMME/CO-OPERATIVE RISK FUND PROGRAMME-2008. EXHIBIT P2. TRUE COPY OF APPLICATION DATED 35/2011. EXHIBIT P3. TRUE COPY OF COVERING LETTER NO.RF/19/10-11 DATED 35/2011. EXHIBIT P4. TRUE COPY OF BOARD RESOLUTION NO.6809 DATED 25/4/2011. EXHIBIT P5 TRUE COPY OF CERTIFICATE DATED 35/2011. EXHIBIT P6. TRUE COPY OF LETTER DATED 26/2012. EXHIBIT P7 TRUE COPY OF

ORDER

NO.1227/2010 DATED 14.2011. EXHIBIT P8. TRUE COPY OF

ORDER

NO.218/2012. EXHIBIT P9. TRUE COPY OF REPRESENTATION DATED 11/1/2012. RESPONDENTS' EXHIBITS:NIL. /TRUE COPY/ P.A.TO JUDGE. In K.VINOD CHANDRAN, J.

----- W.P.(C)No.900 of 2013
----- Dated this the 31st day of October, 2013

JUDGMENT

The petitioner is the son and legal heir of a deceased borrower of the second respondent Bank. The borrower was aged 76 years at the time of his death. The petitioner, the son and legal heir of the borrower approached the Bank under Ext.P1 Scheme, wherein the first respondent Board covers the risk of the amounts outstanding in the loan account of deceased borrowers, provided, however, that the repayment of the loan stipulated as per the agreement is to be made before the borrower attained the age of 70 years.

2. The Bank made an application before the first respondent Board for providing relief as per Ext.P1 Scheme. However, the first respondent Board has not considered the same till now. A communication was issued to the respondent Bank by the first respondent W.P.(C)No.900 of 2013 :

2. : Board that the borrower in the instant case being above 70 years, the application is not liable to be considered under Ext.P1. The Bank immediately replied to the first respondent Board contending that there was a concrete proposal for amendment of Ext.P1 Scheme and that the amendments are brought into force as per the proposals made. The Bank also referred to two other borrowers, whose loans were covered under Ext.P1 Scheme by the first respondent Board; wherein the borrowers were of age exceeding 70; as originally prescribed in Ext.P1. The petitioner also having come to know of the communication to the respondent Bank by the first respondent Board, filed Ext.P9 representation before the first respondent.

3. It is not clear as to whether any amendments have been brought to Ext.P1, enabling the petitioner also to claim such benefits and as to on what grounds, relief was extended to the two loan accounts pointed out by the Bank in Ext.P6. In any event the first respondent Board is bound W.P.(C)No.900 of 2013 :

3. : to consider the application made by the Bank on the request of the petitioner herein.

4. In such circumstances, Ext.P9 is directed to be considered by the first respondent after giving due opportunity to the petitioner as also to the respondent Bank for a personal hearing and dispose of the said representation along with the application made by the first respondent Bank, for relief under Ext.P1 Scheme; in accordance with law. The same shall be done within a month of the appearance of the petitioner and the first respondent Bank before the authority. The petitioner and the second respondent Bank are directed to appear before the first respondent Board on 12.11.2013. The writ petition is disposed of as above. Sd/-
K.VINOD CHANDRAN, JUDGE. In