

Thomas Daniel vs the Competent Authority Under Buds Act, 2019

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Court : Kerala

Decided On : Mar-12-2024

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/8554/2024

Appellant : Thomas Daniel

Respondent : The Competent Authority Under Buds Act, 2019

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN TUESDAY, THE 12TH DAY OF MARCH 2024 / 22ND PHALGUNA, 1945 PETITIONER: THOMAS DANIEL, AGED 68 YEARS, S/O LATE DANIEL, PERMANENTLY RESIDING AT INDIKATTIL HOUSE, P.O. VAKAYAR, KONNI, PATHANAMTHITTA, PIN - 686698. BY ADVS.C.S.MANU DILU JOSEPH C.A.ANUPAMAN T.B.SIVAPRASAD C.Y.VIJAY KUMAR MANJU E.R. ANANDHU SATHEESH ALINT JOSEPH RESPONDENTS: 1 THE COMPETENT AUTHORITY UNDER BUDS ACT, 2019 GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, KERALA, PIN - 695015.

2 POPULAR GROUP OF INVESTORS ASSOCIATION (PGIA) AGED 48 YEARS REPRESENTED BY ITS SECRETARY BINDU T.N, D/O.LATE NARAYANAN, 66/6580, SECOND FLOOR, DD JUNCTION BUILDING, OPP. ALAPPATT ARCADE, M.G.ROAD, ERNAKULAM, KERALA, PIN - 682035.

3 JOLLY P MATHEW, AGED 62 YEARS, W/O.P.V.MATHEW, PALAKARAKATTIL, MALLAPPILLY, EZHUMALLOOR, NARAKATHANI, PATHANAMTHITTA, PIN - 689544. 4 OOMMEN MATHAI, AGED 76 YEARS, S/O.MATHAI, VALIYATHANNICKAL (H), KUMBANAD P.O., THIRUVALLA, PIN - 689547. 5 MADHU T, AGED 34 YEARS, W/O V.T.SWAMI, NO.503 11B CROSS, BELLAYOUT III BLOCK, P.O. VIDYARANYAPURA, BANGALORE, PIN - 560097. -2- 6 VIMALA, AGED 69 YEARS, W/O.LATE K.S.VEERESHA, NO.503 11B CROSS, BELLAYOUT III BLOCK, P.O., VIDYARANYAPURA, BANGALORE, PIN - 560097. 7 JIBI KORAH AGED 45 YEARS W/O.ALIAS K.P., KANDANASLAM (H), VALAYANCHIRANGARA, VENGOLA, KERALA, PIN - 683556. 8 KRISHNAJA T, AGED 42 YEARS, W/O.SAJEEV, AMBILYIL, PAVUMBA P.O., KOLLAM, PIN - 690574. 9 JAMSHAD J, AGED 40 YEARS, S/O. JALEEL KALLOORKIZHAKKATHIL, THAMARAKULAM P.O., ALAPPUZHA, PIN - 690530. 10 BHUVANALAKSHMI S, AGED 35 YEARS D/O.LATE BHUVANASWARAB PILLAI, ABHIKABHAVANAM, THAMARAKULAM P.O., ALAPPUZHA, PIN - 690530. 11 M.C.VARGHESE, AGED 83 YEARS S/O. DANIAL, THATTATHIL (H), KUMPLAMPOIKA P.O.,VELLAYANI, PATHANAMTHITTA, PIN - 689661 12 MURALEEDHAREN PILLAI, AGED 52 YEARS S/O.KRISHNA PILLAI, NEELAMBARI (H), SOORANAD NORTH, ANAYADI, KOLLAM, PIN - 690561.

13 DANIEL VARGHESE, THE PATRON AND CHAIRMAN OF M/S D CAPITALS PORTFOLIO INVESTMENTS LLC, M-01, OFFICE NO.2, BEHIND WTC BUILDING, NO.28, CORNICHE ROAD, ABU DHABI,

UAE, PRESENTLY AT CRA 60, PREMKUNJU, EDAPARAMBIL,
OPPOSITE LOYOLA SCHOOL, SREEKARYAM P.O, ULLOOR
VILLAGE, THIRUVANANTHAPURAM TALUK,
THIRUVANANTHAPURAM, PIN - 695017. -3-

*ADDL.R14 POPULAR FINANCE DEPOSITORS ASSOCIATION,
REPRESENTED BY ITS GENERAL SECRETARY, REGISTER NO.
PTM/TC/225/20, 1ST FLOOR, RAJ AIR TRAVEL BUILDING,
CHANDANAPPALLY P.O., PATHANAMTHITTA DISTRICT - 689648.

*ADDL.R15 B. SIDDHARTHAN ASAN, AGED 73 YEARS, VALIYA
VEEDU, MERA NAGAR - 40, MUNDAKKAL DIVISION KOLLAM PIN:
691 001 (PRESIDENT POPULAR FINANCE DEPOSITORS
ASSOCIATION) *ADDL.R16 PRABHAKARAN.P.B, AGED 71 YEARS,

S/O KARUTHAKUNJU, VADAKEKARA PADINJARATHIL,
ANANDAPPALLY.P.O, ADOOR, PATHANAMTHITTA DISTRICT -
691525 (GENERAL SECRETARY, POPULAR FINANCE DEPOSITORS
ASSOCIATION) *ADDL.R17 SUNIL KUMAR K, AGED 52, S/O VK

KRISHNA PILLAI. VALIYA VEETIL HOUSE KAITHAPARAMBU.PO,
ENATHU, ADOOR THALUK, PATHANAMTHITTA DISTRICT - 691526
(TREASURE, POPULAR FINANCE DEPOSITORS ASSOCIATION)

*ADDL.RESPONDENTS 14 TO 17 ARE IMPEADED AS PER ORDER
DATED 12.03.2024 IN I.A.NO.1/2024 IN WP(C)NO.8554/2024.

BY ADVS.JACOB P. ALEX K.R.RANJITH, GP JOSEPH P.ALEX MANU
SANKAR P. AMAL AMIR ALI THIS WRIT PETITION (CIVIL) HAVING
COME UP FOR ADMISSION ON 12.03.2024, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING: -4-

JUDGMENT

Even though the petitioner impugns Ext.P3

order issued by the competent Authority under

the Banning of Unregulated Deposit Schemes Act, 2019 (BUDS Act, for short), when this matter was called today, Sri.C.S.Manu - his learned counsel, affirmed that his client will abide by the directions in Ext.P3, but sought liberty for him to submit a fresh proposal, supported by all relevant and germane documents.

2. Sri.K.R.Renjith - learned Government

Pleader, did not oppose the afore request, explaining that, even in Ext.P3, all which has been required of the petitioner, by the competent Authority, is to produce the necessary documents, properly attested.

3. Sri.Jacob P.Alex - learned counsel for

respondents 14 to 17, however, submitted that the attempt of the petitioner is only to buy -5- time; and that their proposals are not tenable and merely speculative and conjectural in nature. He prayed that, therefore, no reliefs, as sought for in this writ petition, be granted.

4. I have considered the afore rival submissions and have also gone through Ext.P3.

5. I must say upfront that I cannot find

fault with Ext.P3 because, the competent Authority has only said that the statutory Committee is willing to consider the proposal of the petitioner, however, if it is supported by all necessary documents, which are properly attested and certified. I fail to understand how the petitioner could have approached this Court against such an order.

6. That being said, however, I do not deem

it necessary to go into the merits of any of the contentions of the rival parties at this stage because the submissions, as recorded above, on -6- behalf of the petitioner, now indicate that they will file a fresh proposal before the competent Committee/Authority. I do not see any reason why he should be denied such an opportunity, provided he does so within the strictest time frames. In the result, I close this writ petition, without acceding to the challenge against Ext.P3; however,

leaving full liberty to the petitioner to approach the competent Committee/Authority, with an appropriate proposal, within a period of 10 days from the date of receipt of a copy of this judgment. If any such proposal is made, the Committee/Authority will consider the same in terms of law, after hearing the petitioner, respondents 14 to 17, as also any other interested persons; but, in the alternative, if he does not make such proposal, then the -7- competent Authority will be at liberty to take any necessary action under the BUDS Act as may be warranted in law. Sd/- DEVAN RAMACHANDRAN JUDGE akv -8- APPENDIX OF WP(C) 8554/2024 PETITIONER EXHIBITS EXHIBIT P-1 TRUE COPY OF THE DRAFT SCHEME FOR TAKE

OVER OF THE POPULAR FINANCE COMPANY AND ITS ALLIED INSTITUTIONS DATED 6-2- 2023 PREPARED BY THE PETITIONER AND PLACED BEFORE THE 2ND RESPONDENT ASSOCIATION FOR CONSIDERATION

EXHIBIT P-2 TRUE COPY OF THE JUDGEMENT DATED 7-9- 2023 IN W.P (C) NO.15846 OF 2023 PASSED BY THIS HON'BLE COURT EXHIBIT P-3 TRUE COPY OF THE ORDER BEARING NO.SC3/147/2023/HOME DATED 12-2-2024 ISSUED BY THE 1ST RESPONDENT EXHIBIT P-4 TRUE COPY OF THE PETITION DATED 27-12- 2023 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT EXCLUDING THE DOCUMENTS RESPONDENT ANNEXURES ANNEXURE A TRUE COPY OF THE STATEMENT DATED 25- 05- 2023 FILED BY THE 2ND RESPONDENT HEREIN IN WA NO. 453 OF 2021 (WITHOUT ANNEXURES) ANNEXURE B TRUE COPY OF THE INTERIM STATUS REPORT DATED 29-11-2023 FILED BY THE CBI IN WA NO.109 OF 2021

ANNEXURE R3(A) TRUE PHOTOCOPY OF THE LIST OF THE

RC01(E/2021/CBI/SIT/ACB/COCHIN ANNEXURE R3(B) TRUE PHOTOCOPY OF THE LETTER NO. DCTVM/6576/2020-S11 DATED 12.12.2022. -9- ANNEXURE R3(C) TRUE PHOTOCOPY OF THE LETTER NO.DCKLM/9513/2020 M5 DATED 09.12.2022. ANNEXURE R3(D) TRUE PHOTOCOPY OF THE LETTER NO.DCPTA/2825/2020 B7 DATED 12.12.2022. ANNEXURE R3(E) TRUE

PHOTOCOPY OF THE LETTER NO.DCKTM/6712/2020 H1 DATED 08.10.2021.
ANNEXURE R3(F) TRUE PHOTOCOPY OF THE LETTER
NO.DCALP/8493/2020/N5 DATED 29.12.2022. ANNEXURE R3(G) TRUE
PHOTOCOPY OF THE LETTER NO.DCEKM/8532/2020/M2 DATED 14.12.2022.
ANNEXURE R3(H) TRUE PHOTOCOPY OF THE LETTER
NO.DCTSR/9256/2020/C3 DATED 13.12.2022. ANNEXURE R3(I) TRUE
PHOTOCOPY OF THE LETTER NO.DCIDK/3541/2021/E11 DATED 16.12.2022.
ANNEXURE R3(J) TRUE PHOTOCOPY OF THE LETTER NO.
DCPKD/8676/2020-B7 DATED 11.10.2021 ANNEXURE R3(K) TRUE
PHOTOCOPY OF THE LETTER NO. DCWYD/7520/2020-S2 DATED 16.08.2021.
ANNEXURE R3(L) TRUE PHOTOCOPY OF THE LETTER NO. DCKKD/
7896/2020-S2 DATED 29.08.2021 ANNEXURE R3(M) TRUE PHOTOCOPY OF
THE LETTER NO. DCMPM/7382/2021-D3 DATED 02.08.2021 ANNEXURE R3(N)
TRUE PHOTOCOPY OF THE LETTER NO. -10- DCKNR/7607/2020-D1 DATED
14.12.2022 ANNEXURE R3(O) TRUE PHOTOCOPY OF THE LETTER NO.
DCKSGD/6697/2020-D4 DATED 06.11.2021. ANNEXURE R3(P) TRUE
PHOTOCOPY OF THE LETTER NO.D7(B)-

ANNEXURE R3(Q) TRUE PHOTOCOPY OF THE GOVERNMENT ORDER

GO(RT)NO.162/2023/HOME DATED 21.01.2023.

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