

Lalitha.P.K vs State of Kerala

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Court : Kerala

Decided On : Jun-21-2023

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/618/2022

Appellant : Lalitha.P.K

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN WEDNESDAY, THE 21ST DAY OF JUNE 2023 / 31ST JYAISHTA, WP(C) NO. 618 OF 2022 PETITIONERS: 1 LALITHA.P.K AGED 61 YEARS W/O. KRISHNANKUTTY K., THANNININNAVILA, MUKKOLA, MULLOOR P.O., VIZHINJAM, THIRUVANANTHAPURAM-695521. 2 KRISHNANKUTTY K., AGED 64 YEARS S/O. KOCHUKUNJAN, THANNININNAVILA, MUKKOLA, MULLOOR P.O., VIZHINJAM, THIRUVANANTHAPURAM- 695521. BY ADVS. THONNAKKAL G.RAJEEV REITH RAJENDRAN BINCY JOB AJITH KUMAR.S RESPONDENTS:

1 STATE OF KERALA REP. BY THE PRINCIPAL SECRETARY TO GOVERNMENT, DEPARTMENT OF CO-OPERATION, GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001. 2 ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), NEYYATTINKARA, MINI CIVIL STATION BUILDING, NEYYATTINAKARA-KATTAKKADA ROAD, ALUMMOODU, NEYYATTINKARA, THIRUVANANTHAPURAM-695121. 3 MULLOOR RURAL CO-OPERATIVE SOCIETY LTD. NO.T 1499, REP. BY ITS SECRETARY, MULLOOR P.O., VIZHINJAM, THIRUVANANTHAPURAM-695521. 4 THE SECRETARY, MULLOOR RURAL CO-OPERATIVE SOCIETY LTD. NO. T1499, MULLOOR P.O., VIZHINJAM,

THIRUVANANTHAPURAM-695521. BY ADV K.B.PRADEEP SMT.MABLE C.KURIAN[SR.GP] THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.06.2023, ALONG WITH WP(C).4275/2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN WEDNESDAY, THE 21ST DAY OF JUNE 2023 / 31ST JYASHTA, WP(C) NO. 4275 OF 2022 PETITIONER: JAMEELA AGED 63 YEARS D/O. ABDUL AZEEZ, PAVOOR PUTHEN VEEDU, ASRAMAM GARDENS 19, ASRAMAM, KOLLAM, PIN-691002. BY ADVS. P.ALI A.MUHAMMED HASHIM RESPONDENTS: 1 KERALA CO-OPERATIVE OMBUDSMAN OFFICE OF THE KERALA CO-OPERATIVE OMBUDSMAN, KAITHAMUKKU, THIRUVANANTHAPURAM-695033. 2 REGISTRAR OF CO-SOCIETIES, JAWAHAR SAHAKARANA BHAVAN, DPI JUNCTION, THYCAUD P.O., THIRUVANANTHAPURAM-695014. 3 MULLOOR RURAL CO-OPERATIVE SOCIETY (LTD) NO.T.1499, H.O.BRANCH, MUKKOLA, MULLOOR P.O. (VIA), VIZHINJAM, REPRESENTED BY THE

SECRETARY, PIN- 695521. BY ADV K.B.PRADEEP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.06.2023, ALONG WITH WP(C).618/2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioners in these two cases - which have been heard together, taking note of the analogous factual circumstances and similarity of the reliefs sought - are persons who made Fixed Deposits with the 3rd respondent - Mulloor Rural Co-operative Society Ltd. ('the Society' for short). Their grievance is that, in spite of the fact that their Fixed Deposits matured for payment long ago, its proceeds have not been paid to them by the Society and that they are refusing to do so citing financial constraints. He, thus, prayed that official respondents be directed to take immediate action against the Society, to ensure that proceeds of their Fixed Deposits are returned to them without any further delay.

2. Sri.K.B.Pradeep - learned counsel appearing for

the Society, answered the afore submissions of Sri.Thonnakkal G.Rajeev - learned counsel appearing for the petitioners in WP(C) No. 618/2022 and that of Sri.P.Ali - learned counsel appearing for the petitioner in WP(C) No.4275/2022, explaining that his client suffers more than Rupees Eight Crores in liability, but being unable to honour it because the cases and arbitration requests filed by them, for recovery from their loanees, are yet to bare fruits fully. He submitted that, therefore, his client had earlier approached the Government for sale of their properties; but which had been rejected solely saying that they were governed by an Administrative Committee. He then prayed that, since a new Managing Committee has now taken office, liberty be reserved to them to pursue their application for such purpose, which is still pending.

3. Smt.Mable C.Kurian - learned Senior Government

Pleader appearing for the official respondents, submitted that liability to repay the proceeds of the Fixed Deposits is squarely on the Society; but that official

respondents will abide by any directions to be issued by this Court.

3. When I consider and evaluate the afore

submissions, it is evident that the Society does not have any dispute regarding the quantum or claim of the petitioners. They are, on the contrary, unequivocally admitting to the liability and therefore, all that this Court needs to do is to ensure that they do so without any avoidable delay.

4. That said, since the Society says that they are in

extreme financial crisis, I am without doubt that they must invoke any remedy, as may be available to them, to ensure that they are able to honour their liabilities without causing prejudice to the persons like the petitioners. In the afore circumstances, this Writ Petition is disposed of with the following directions: a) The Society is directed to return the proceeds of the Fixed Deposit to the petitioners in these cases, as expeditiously as is possible, but not later than six months from the date of receipt of a copy of this judgment, either in lumpsum or in installments. b) For the afore purpose, I leave liberty to the Society to make a fresh application or to pursue any application they preferred before the Government for sale of their properties; which shall then be considered by its Competent Authority in terms of law. Sd/- DEVAN RAMACHANDRAN, JUDGE

Isn APPENDIX OF WP(C) 4275/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE COMPLAINT NO.174/2020 SUBMITTED TO 1ST RESPONDENT. Exhibit P2 TRUE COPY OF THE ORDER OF 1ST RESPONDENT IN COM. NO.174/2020 DATED 25.2.2021. Exhibit P3 TRUE COPY OF THE PETITION NO.339654/21 SUBMITTED TO 2ND RESPONDENT DATED 20.10.21. APPENDIX OF WP(C) 618/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE FIXED DEPOSIT RESPONDENT SOCIETY TO THE 1ST PETITIONER ON 13.1.2014 AGAINST FD A/C NO.2553. Exhibit P1(A) TRUE COPY OF THE FIXED DEPOSIT RESPONDENT SOCIETY TO THE 1ST PETITIONER ON 2.4.2013 AGAINST FD A/C NO.2374. Exhibit P1(B) TRUE COPY OF THE FIXED DEPOSIT RESPONDENT SOCIETY TO THE 1ST PETITIONER ON 16.9.2017 AGAINST FD A/C.NO.196. Exhibit P1(C) TRUE COPY OF THE FIXED DEPOSIT RESPONDENT SOCIETY TO THE 1ST PETITIONER ON 16.9.2017 AGAINST

FD A/C NO.197. Exhibit P2 TRUE COPY OF THE FIXED DEPOSIT RESPONDENT SOCIETY TO THE 2ND PETITIONER ON 28.6.2016 AGAINST FD A/C NO.3027. Exhibit P3 TRUE COPY OF THE COMPLAINT DATED 28.7.2021 FILED BY THE 1ST PETITIONER BEFORE THE 2ND RESPONDENT. Exhibit P4 TRUE COPY OF THE COMPLAINT DATED 28.7.2021 FILED BY THE 2ND PETITIONER BEFORE THE 2ND RESPONDENT. Exhibit P5 TRUE COPY OF THE REPLY NUMBERED V RESPONDENT. Exhibit P6 TRUE COPY OF THE REPLY NUMBERED V RESPONDENT ADDRESSING THE 2ND PETITIONER. Exhibit P7 TRUE COPY OF THE COMPLAINT DATED

9.7.2021 FILED BY THE 1ST PETITIONER BEFORE THE JOINT REGISTRAR OF CO- OPERATIVE SOCIETIES (GENERAL), THIRUVANANTHAPURAM.

Exhibit P8 TRUE COPY OF THE COMPLAINT DATED 9.7.2021 FILED BY THE 2ND PETITIONER BEFORE THE JOINT REGISTRAR OF CO- OPERATIVE SOCIETIES. Exhibit P9 TRUE COPY OF THE LETTER NUMBERED V RESPONDENT ADDRESSING THE 1ST PETITIONER. Exhibit P10 TRUE COPY OF THE LETTER NUMBERED V RESPONDENT ADDRESSING THE 2ND PETITIONER. TRUE COPY P.A TO JUDGE LSN

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