

Ouseph Manual Vs. Reserve Bank of India and Others

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Court : Kerala

Decided On : Feb-25-2015

Judge : Honourable Mr.Justice a.M.Shaffique

Appellant : Ouseph Manual

Respondent : Reserve Bank of India and Others

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE A.M.SHAFIQU WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015 6TH PHALGUNA, 1936 WP(C).No. 8777 of 2009 (N) ----- PETITIONER(S): ----- OUSEPH MANUEL ALIAS BABU JOSE, KOOTTAPPILLIL HOUSE, POTHANICADU P.O., KOTHAMANGALAM ERNAKULAM DISTRICT. BY ADVS.SRI.PHILIP T.VARGHESE SRI.THOMAS T.VARGHESE RESPONDENT(S): -----

1. RESERVE BANK OF INDIA, REPRESENTED BY THE ASST.GENRAL MANAGER RURAL PLANNING AND CREDIT DEPARTMENT BAKERY JUNCTION, P.B.NO.6507, THIRUVANANTHAPURAM. PIN - 695 001
2. THE FEDERAL BANK LTD., REPRESENTED BY ITS MANAGER, KOTHAMANGALAM BRANCH ERNAKULAM DISTRICT. PIN - 686 691
3. THE GENERAL MANAGER (CREDIT) AND GRIEVANCE REDRESSAL OFFICER, THE FEDERAL BANK LTD. REGIONAL OFFICER, ERNAKULAM.

PIN- 682 016

4. UNION OF INDIA, REPRESENTED BY THE SECRETARY, MINISTRY OF FINANCE NEW DELHI. PIN - 110 001

5. THE VILLAGE OFFICER, VILLAGE OFFICE, POTHANICADU, ERNAKULAM - PIN - 686 671 R2 & 3 BY ADV. SRI.A.ANTONY& ADV. SMT. LEELAMMA ANTONY BY ASG STI. N. NAGARESH ASST.SOLICITORF FOR R4 BY GOVERNMENT PLEADERSRI. P.K. ABDUL RAHMAN THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON2502-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 8777 of 2009 (N) ----- APPENDIX PETITIONER'S EXTS: EXT.P1: TRUE COPY OF THE AGRICULTURAL DEBT WAIVER AND DEBT RELIEF SCHEME 2008 NOTICED BY THE RESERVE BANK OF INDIA EXT.P2: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIOENR BEFORE THE ASSISTANT GENERAL MANAGER, FEDERAL BANK LIMITED, HEAD OFFICE ALUVA ON2609-2008 EXT.P3: THE CERTIFICATE NO. 3292/08 DATED2509-2008 ISSUED BY THE VILLAGE OFFICER, POTHANICAD EXT.P4: TRUE COPY OF THE AWARD PASSED IN LAC NO. 266/95 EXT.P5: TRUE COPY OF THE AWARD PASSED IN LAC NO. 267/95 BY THE TAHSILDAR (LA) MVIP, KALLOORKKAD EXT.P6: TRUE COPY OF THE SALE DEED NO. 705/71 DATED152-1971 OF SRO, KOTHAMANGALAM EXT.P7: TRUE COPY OF THE SALE DEED NO. 4624/79 DATED1012-1979 OF SRO, KOTHAMANGALAM EXT.P8: TRUE COPY OF THE SALE DEED NO. 229/95 DATED191-95 OF SRO, POTHANICAD EXT.P9: TRUE COPY OF THE SALE DEED NO. 16571/99 DATED1609-99 OF SRO POTHANICAD EXT.P10: TRUE COPY OF THE SALE DEED NO. 2560/05 DATED1212-2005 OF SRO, POTHANICADU EXT.P11: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED2609-2008 BEFORE THE IST RESPONDENT EXT.P12: TRUE COPY OF THE FORWARDING LETTER NO. RPCD (T) NO. POL/02.03.14-08-20 DATGED27 11-2008 ISSUED BY THE IST RESPONDENT EXT.P13: TRUE COPY OF THE COMMUNICATION NO. SMEACD/S-36/g-70/1950-08 dated 21-10-2008 INFORMING THE PETITIOENR BH THE3D RESPONDENT EXT.P14: TRUE COPY OF THE LETTER NO. RPCD(T) NO. POL/362/02-03-14/2008-2009

DATED1211- 2008 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER
EXT.P15: TRUE COPY OF THE LETTER NO. RPCD (T) NO. POL/2/05/02-03-
14/2008-09 DATED161- 2009 ISSUED BY THE 1ST RESPONDENT TO THE
PETITIONER EXT.P16: TRUE COPY OF THE LETTER DATED262- 2009
ISSUED BY THE 2D RESPONDENT TO THE PETITIONER EXT.P17: TRUE
COPY OF THE LETTER DATED122- 2009 ISSUED BY THE 2D RESPONDENT
DIRECTING THE PETITIONER TO REMIT LOAN AMOUNT IN THREE EQUAL
INSTALMENTS. /TRUE COPY/ P.S.TO JUDGE A.M. SHAFFIQUE, J.

..... W.P.C. No. 8777 of 2009 - N
..... Dated :

25. - 02 - 2015

JUDGMENT

Petitioner has approached this Court, inter alia, seeking to quash Exts. P13 to P15 and P17 and for a direction to the 2nd respondent to refund to the petitioner an amount of Rs. 2,51,761/- with interest at the rate of 13% from 27-6-2009.

2. Petitioner also seeks a declaration that he is a "small farmer" entitled to the benefits under the Agricultural Debt Waiver and Debt Relief Scheme, 2008 (hereinafter referred to as

"00. Scheme") which was not granted by the respondents.

3. The short facts involved in the above Writ Petition would disclose that the petitioner had availed certain loan from the 2nd respondent Bank and when 2008 Scheme came into force, the petitioner applied for the benefits under the above W.P.C. No. 8777 of 2009 - N2Scheme available to "small farmer" on the ground that he was holding and cultivating only an extent of land which is less than 5 acres.

4. The respondent Bank did not provide the benefit observing that when the petitioner submitted the application for loan, he has indicated that he is holding cultivating land more than 5 acres as evidenced from Exts. R2 (b) and (c). Though the petitioner had taken up the matter before the Grievance Redressal

Officer, the claim of the petitioner was rejected.

5. According to the petitioner, sufficient materials were produced to indicate that as on the date the petitioner submitted the application for loan, he was not in possession of land having an extent of more than 5 acres. The application form and tax receipts which were produced of course indicate that land holding was more than 5 acres on account of the fact that proper mutation entries were not made in the Revenue Records. What W.P.C. No. 8777 of 2009 - N3 was available in the Revenue records were shown along with the application form whereas large extent of land possessed by the petitioner had been acquired/assigned and mutation entries were not effected.

6. A counter affidavit has been filed by the respondent Bank indicating that the petitioner is not entitled for the benefit of "small farmer" as he was holding more than 5 acres of land. Further it is stated that the petitioner was given other benefits which were due to "other farmers" under the Scheme and, therefore, the petitioner is not entitled to claim the benefit of Scheme for "small farmer".

7. Learned counsel for the petitioner submitted that the petitioner was forced to avail of the Scheme for "other farmer" as the Bank insisted to close the loan account. Accordingly, another loan was taken by availing the benefit for "Other farmers", the payment was made and the former loan account W.P.C. No. 8777 of 2009 - N4 was closed. According to the petitioner, it was only at the instance of the Bank that such an arrangement was made and the loan account was closed. Hence, the request is for refund of the amount deposited.

8. The learned counsel for the petitioner points out that sufficient materials are available to indicate that the petitioner was not having 5 acres of land at the relevant time. This fact is disputed based on the documents produced before the bank. Apparently, this is a disputed question of fact which cannot be decided by this Court in a petition under Article 226 of the Constitution of India.

9. It is submitted by the learned counsel appearing for the Bank that the Grievance Redressal Office is not functioning presently as the Scheme has already been lapsed. Under such circumstances, there cannot be a reconsideration of the issue

raised by the petitioner at this point of time. Having regard to W.P.C. No. 8777 of 2009 - N5the factual situation, I do not think that the petitioner will be entitled to seek the relief as sought for. The remedy , if any, of the petitioner is to approach the Civil Court for appropriate directions. With this observation, this Writ Petition is dismissed. Sd/- A.M. SHAFFIQUE (Judge) ani/ /truecopy/ P.S. toJudge

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