Jacob Vs. District Collector

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Court : Kerala

Decided On : Feb-20-2006

Reported in : IV(2006)BC369; 2006(2)KLT4

Judge : C.N. Ramachandran Nair, J.

Acts : Kerala Revenue Recovery Act, 1968 - Sections 71

Appeal No. : O.P. No. 19218 of 2002

Appellant : Jacob

Respondent : District Collector

Advocate for Def. : Pauly Mathew Muricken, Adv. and;Government Pleader

Advocate for Pet/Ap. : V.N. Swaminathan and; S. Dileep, Advs.

Judgement :

C.N. Ramachandran Nair, J.

1. The petitioner is challenging revenue recovery proceedings for recovery of amount decreed by the civil court against the petitioner ill favour of the third respondent-Bank. It is conceded that the amount decreed is liability due to the Bank in the Credit Card account of the petitioner. The petitioner who was holding a Savings Bank Account did not provide sufficient funds in the account for the Bank

to adjust the same against debit balance in the Credit Card Account. Accordingly Bank filed suit and obtained a decree against the petitioner for recovery of the outstanding amount with interest thereon. As on the date of initiation of revenue recovery proceedings the amount due from the petitioner to the Bank was Rs. 34,264/- with future interest.

2. Counsel for the petitioner submitted that revenue recovery proceedings cannot be initiated for recovery of amount due under Credit Card account as the notification issued by the Government namely, SRO 797/1997 under Section 71 of the Revenue Recovery Act, 1968 authorises recovery through revenue recovery proceedings only for development loans which does not take in advance made under the Credit Card Account. Counsel for the petitioner has also relied on the decision of the Supreme Court in Califf India Chambers v. Syndicate Bank 1999 (1) KLT 155 wherein the Supreme Court has held that unless the loan falls within the definition of development loan found in the notification, revenue recovery is not maintainable. Counsel for the third respondent on the other hand relied on the decision of this court in State Bank of India v. Kuttappan 1998 (2) KLT 130 and contended that decree amount can be recovered through revenue recovery proceedings under the abovereferred notification issued under Section 71 of the R.R Act. However, on going through the decision of this court I find all what this court has held is that amount due under a decree also can be recovered through revenue recovery proceedings provided the loan comes within the purview of the notification. Loan under development scheme is notified by the Government under SRO 1465/87 which is as follows:

SRO 1465/87:-- In exercise of the powers conferred by Section 71 of the Kerala Revenue Recovery Act, 1968 (15 of 1968), the Government of Kerala, being satisfied that it is necessary to do so in public interest hereby declare that the provisions of the said Act shall be applicable to the recovery of amounts due from any person or class of persons to any bank on account of any loan advanced by that bank under various development schemes..

(b) 'Development scheme' shall include all priority sector advances and all financial assistance given through the banks under the schemes approved by the

State/Central Government or other Government agencies or the schemes administrated by the Development Department with a view to improving the living conditions of the economically and socially weaker section of the community. (Notification No. 54415/S3/86/RDdtl3/10/1987,published in K.G. dt 17/11/1987)

It is clear from the above that credits availed under Credit Cards by the Card holder does not represent a loan under the development scheme. Therefore, obviously recovery of the decreed amount is not permissible under the R.R. Act as the notification issued under Section 71 of the Act does not authorise recovery of such loan. In the circumstances, the decision of the Supreme Court referred above squarely applies to this case and the decision relied on by the third respondent also does not go against the law declared by the Supreme Court in as much as the finding of this court is also to the effect that recovery of decree amount through revenue recovery can also be made provided the loan leading to the decree is one coming within the scope of notification issued under Section 71 of the R.R. Act. In the circumstances, O.R has to be allowed by quashing revenue recovery proceedings initiated for recovery of the amount decreed by the civil court in respect of advances permitted to the petitioner under Credit Card Account and I do so. However, the Bank is free to proceed for recovery of balance amount including interest if any due through execution proceedings. The execution court will exclude from period of limitation, the period during which O.R filed by the petitioner was pending in this court.