

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR.JUSTICE. P.S.GOPINATHAN

FRIDAY, THE 15TH DAY OF JUNE 2012/25TH JYASHTA 1934S

WP(C).No. 27285 of 2010 (I)

PETITIONERS:

1. K.N.SREELATHA,W/O.T.M.RAVEENDRAN NAIR
NEELAMALIL, THIRUVANCHOOR PO, KOTTAYAM DISTRICT.
2. E.K.LETHAMOL,W/O.M.V.RAMACHANDRAN
KANJIRAKKATTU, AMAYANNOOR PO, KOTTAYAM DISTRICT.

BY ADV. SMT.A.SREEKALA

RESPONDENTS:

1. THIRUVANCHOOR SERVICE CO-OPERATIVE BANK LTD. NO.1942,
THIRUVANCHOOR, KOTTAYAM DISTRICT,
REPRESENTED BY ITS SECRETARY.
2. THE PRESIDENT
BOARD OF DIRECTORS, THIRUVANCHOOR SERVICE
CO-OPERATIVE BANK LTD. NO. 1942, THIRUVANCHOOR
KOTTAYAM DISTRICT.
3. THE KOTTAYAM TALUK CO-OPERATIVE
EMPLOYEES CO-OPERATIVE SOCIETY LTD
NO.K-645, ADAM TOWER, KOTTAYAM DISTRICT
REPRESENTED BY ITS SECRETARY.
4. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), CO-OPERATIVE DEPARTMENT
KOTTAYAM DISTRICT
5. ANNAMMA KORAH, W/O.LATE M.A.KORAH
MAMMELIL HOUSE, THIRUVANCHOOR PO, KOTTAYAM DISTRICT.
6. TINTU M.KORAH, D/O.LATE M.A.KORAH
MAMMELIL HOUSE, THIRUVANCHOOR PO,KOTTAYAM DISTRICT
7. RINTU M.KORAH, D/O.LATE M.A.KORAH
MAMMELIL HOUSE,THIRUVANCHOOR PO,KOTTAYAM DISTRICT.

R1 BY ADV. SRI.SURIN GEORGE IPE
BY ADV. SRI.DEVAN RAMACHANDRAN
BY ADV. SRI.K.M.ANEESH
BY ADV. SRI.S.PRASANTH
BY ADV. SRI.K.SURESH KURUP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-06-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONERS EXTS:

EXT.P1: COPY OF RECEIPT DTD.8.5.2010 ISSUED FROM R3

EXT.P2: COPY OF DIRECTION DTD.20.7.2010 ISSUED BY R4.

EXT.P3: COPY OF APPLICATION FILED BY 1st PETITIONER BEFORE R2.

EXT.P4: COPY OF APPLICATION FILED BY 1st PETITIONER BEFORE R1.

EXT.P5: COPY OF APPLICATION FILED BY 1st PETITIONER BEFORE R4

EXT.P6: COPY OF APPLICATION MADE BY PETITIONERS BEFORE R3

EXT.P7: COPY OF CONSENT LETTER GIVEN BY MR.KORAH TO R3.

RESPONDENTS EXTS:

EXT.R1(a): COPY OF CIRCULAR SPECIFYING THE CONDITIONS AND
STIPULATIONS OF THE LOAN SCHEME

EXT.R1(b): COPY OF LOAN SANCTIONING ORDER OF THE EMPLOYEES OF R1.

EXT.R1(c): COPY OF CONSENT GIVEN BY THE DECEASED.

EXT.R5(a): COPY OF APPLICATION FOR APPOINTMENT DTD 26.6.2010

EXT.R5(b): COPY OF GAZETTE NOTIFICATION DTD.28.9.2010.

/TRUE COPY/

P.A.TO JUDGE

C.N.RAMACHANDRAN NAIR & P.S.GOPINATHAN, JJ.

W.P.(C) No.27285 OF 2010

Dated this the 15th day of June, 2012

J U D G M E N T

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C.N.Ramachandran Nair, J.

Petitioners are guarantors for the loan availed by Mr.M.A.Korah, an employee of the 1<sup>st</sup> respondent bank from the 3<sup>rd</sup> respondent. Mr.M.A.Korah during his life time gave an undertaking to the 3<sup>rd</sup> respondent stating that in the event of his death the D.C.R.G payable by the 1<sup>st</sup> respondent should be paid to the 3<sup>rd</sup> respondent towards settlement of arrears of loan availed by him from that Society. Petitioners' specific allegation is that the Secretary of the 1<sup>st</sup> respondent stood as a surety for the loan availed by Mr.M.A.Korah from the District Co-operative Bank and after his death she wanted that D.C.R.G. payable to late Korah's legal heirs to be paid to the District Co-operative Bank. It is this proposal that is challenged in this Court and stay was granted by this Court against payment of D.C.R.G. payable to late Mr.M.A.Korah's legal heirs to the District Co-operative Bank. The interim order specifically

passed by this Court is that if Mr.M.A.Korah had given consent in writing to the 1<sup>st</sup> respondent or to the 3<sup>rd</sup> respondent for adjustment of D.C.R.G. towards the loan availed from the 3<sup>rd</sup> respondent, the proposal to pay the DCRG amount to the District Co-operative bank should not be implemented.

2. We do not find any ground to deviate from the view taken by the learned Single Judge in the interim order. If consent was given by late Mr.M.A.Korah to the 1<sup>st</sup> respondent for payment of DCRG to discharge his debt availed from the 3<sup>rd</sup> respondent necessarily, the 1<sup>st</sup> respondent is bound to pay the amount to the 3<sup>rd</sup> respondent, for 3<sup>rd</sup> respondent to adjust the same towards the loan amount and if balance is there to be paid to the legal heirs of deceased Korah.

3. Writ Petition is allowed directing the 1<sup>st</sup> respondent to transfer the DCRG amount to the extent required for settlement of arrears due to the 3<sup>rd</sup> respondent and to release the balance to the legal heirs of Mr.M.A.Korah. This judgment should be complied with within three weeks from the date of production of

a copy of this judgment to the Secretary of the 1<sup>st</sup> respondent by the petitioner.

**(C.N.RAMACHANDRAN NAIR, JUDGE)**

**(P.S.GOPINATHAN, JUDGE)**

**ps/16/6**