

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

WP(C).No. 16060 of 2015 (F)

PETITIONER : -

PRASAD P., KODDILAZAKATH VEED,
KALLARA SOUTH, KOTTAYAM DISTRICT.

BY ADVS.SRI.PRASAD CHANDRAN
SRI.ARJUN RAGHAVAN

RESPONDENTS : -

1. DEPUTY DIRECTOR,
DAIRY DEVELOPMENT DEPARTMENT, KOTTAYAM - 686 001.
2. THE ASSISTANT DIRECTOR,
DAIRY DEVELOPMENT DEPARTMENT, KOTTAYAM-686 001.
3. THE KALLARA SOUTH KSHEROLPADAKA CO-OPERATIVE SOCIETY LTD.,
122D APCOS, KALLARA SOUTH.P.O, KOTTAYAM-686 011,
BOARD OF DIRECTORS, REPRESENTED BY THE PRESIDENT.
4. THE KALLARA SOUTH KSHEROLPADAKA CO-OPERATIVE SOCIETY LTD.,
122D APCOS, KALLARA SOUTH.P.O, KOTTAYAM-686 011,
SOCIETY REPRESENTED BY THE SECRETARY

ADDL.R5. JAYASREE UNNIKRISHNAN, W/o UNNIKRISHNAN,
DWARAKA, 869A, NEAR R.L.V. COLLEGE, TRIPUNITHURA.
(ADDL.R5 IS IMPEADED AS PER ORDER DATED 24.6.2015 IN IA 7735/15).

ADDL 5 BY ADV. SRI.MATHEW JOHN (K)
ADDL 5 BY ADV. SRI.DOMSON J.VATTAKUZHY
R3,R4 BY ADV.SRI.GEORGE POONTHOTTAM
BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
25-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF THE RELEVANT PAGE OF KOTTAYAM DISTRICT
DAIRY HANDBOOK 2014.

EXHIBIT P1(a) : ENGLISH TRANSLATION OF EXHIBIT-P1.

EXHIBIT P2 : TRUE COPY OF THE ENQUIRY REPORT SUBMITTED BY THE 2ND
RESPONDENT

EXHIBIT P2(a) : ENGLISH TRANSLATION OF EXHIBIT-P2.

EXHIBIT P3 : TRUE COPY OF THE NOTIFICATION PUBLISHED IN THE MALAYALA
MANORAMA DAILY DATED 16.05.2015.

EXHIBIT P3(a) : ENGLISH TRANSLATION OF EXHIBIT-P3.

EXHIBIT P4 : TRUE COPY OF THE ANNUAL GENERAL BODY NOTICE OF THE
SOCIETY DATED 15.05.2015.

EXHIBIT P4(a) : ENGLISH TRANSLATION OF EXHIBIT-P4.

EXHIBIT P5 : TRUE COPY OF THE CIRCULAR NO.B2/16929/03 DATED 15.01.2004.

EXHIBIT P5(a) : ENGLISH TRANSLATION OF EXHIBIT-P5.

EXHIBIT P6 : TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE
PETITIONER BEFORE THE FIRST RESPONDENT DATED 28.05.2015.

EXHIBIT P6(a) : ENGLISH TRANSLATION OF EXHIBIT-P6.

EXHIBIT P7 : COPY OF THE RELEVANT PORTION OF THE BYELAW OF THE 4th
RESPONDENT SOCIETY ALONG WITH ENGLISH TRANSLATION.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 16060 of 2015

Dated this the 25th day of September, 2015

JUDGMENT

The petitioner, a member of the third respondent Society, has approached this Court complaining against the third respondent that it is purchasing property from the additional fifth respondent without prior sanction from the first respondent, as well as the concurrence of the General body.

2. As can be seen from the record, the first respondent, the competent authority, has already been seized of the issue. In fact, on his direction the second respondent submitted Exhibit P2 enquiry report on the very same issue.

3. The learned counsel for the petitioner, apart from reiterating the petitioner's objections concerning the purchase of the property, has also further submitted that the Office bearers of the third respondent Society have been acting in haste to have a resolution passed by the general body to rectify its action of purchasing the property, illegally.

4. The learned counsel for the additional fifth respondent has submitted that the additional fifth respondent being the owner of the property has received only partial sale

consideration and now he is caught in the cross fire of litigation.

5. The learned counsel for the third respondent Society has submitted that since the matter is pending before the first respondent, it is appropriate to allow the said official to consider the issue on statutory terms.

6. Having regard to the respective submissions of the learned counsel for the petitioner, the learned counsel for the third respondent, as well as the learned counsel for the additional fifth respondent, I am of the opinion that it is entirely appropriate to let the first respondent consider the issue of the third respondent purchasing the property without prior sanction, given the fact that the first respondent has already obtained Exhibit P2 enquiry report from the second respondent.

In the facts and circumstances, this Court disposes of the present writ petition with a direction to the first respondent to consider the issue of the third respondent purchasing the property from the fifth respondent without due process, after putting the parties concerned, including the petitioner, on notice, as expeditiously as possible, at any rate, within a

period of two months from the date of receipt of a copy of this judgment.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-