

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 29341 of 2011 (P)

PETITIONER : -

LALITHA RAMAKRISHNAN, AGED 65 YEARS,
W/O.LATE K.S.RAMAKRISHNAN, CHAPPAKKAD,
GOVINDAPURAM P.O., PALAKKAD DISTRICT.

BY ADVS.SRI.M.G.KARTHIKEYAN
SRI.NIREESH MATHEW

RESPONDENTS :-

1. STATE OF KERALA, REP.BY CHIEF SECRETARY,
GOVT.SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. THE SECRETARY TO GOVERNMENT,
AGRICULTURAL (DAIRY) DEVELOPMENT DEPARTMENT,
GOVT.SECRETARIAT, THIRUVANANTHAPURAM-695 001.
3. THE DEPUTY DIRECTOR, DAIRY DEVELOPMENT,
PALAKKAD-678 001.
4. THE DIRECTOR, AGRICULTURAL (DAIRY
DEVELOPMENT)DEPARTMENT, THIRUVANANTHAPURAM-695 001, .
5. MUTHALAMADA (EAST) KSHEERA VYAVASAYA
CO-OPERATIVE SOCIETY LTD.NO.P.4(D), MEENKARA JUNCTION,
GOVINDAPURAM P.O., PALAKKAD DISTRICT,
REPRESENTED BY ITS PRESIDENT, SRI.P.MADHAVAN
PIN-678 507.

R5 BY ADV.SRI.GEORGE POONTHOTTAM
R1-R4 BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

- EXHIBIT P1 : COPY OF THE ORDER GO (P) No.115/2009/AD DATED 18.6.2009
ISSUED BY THE GOVT. OF KERALA.
- EXHIBIT P2 : COPY OF THE JUDGMENT DATED 7.8.2009 IN WP (C) No.20774/2009
PASSED BY THIS HON'BLE COURT.
- EXHIBIT P3 : COPY OF THE JUDGMENT DATED 4.10.2009 IN W.A. No. 1833/2009
PASSED BY THIS HON'BLE COURT.
- EXHIBIT P4 : COPY OF THE ORDER G.O. (Rt). No. 1258/2011/AD DATED 7.7.2011
PASSED BY THE GOVERNMENT.
- EXHIBIT P5 : COPY OF THE PETITION DATED 1.6.2011 SUBMITTED BY THE
5th RESPONDENT TO THE CHIEF MINISTER.
- EXHIBIT P6 : COPY OF THE PETITION DATED 24.9.2011 FILED BY THE
PETITIONER BEFORE THE 2nd RESPONDENT.

RESPONDENTS' EXHIBITS :

- EXHIBIT R5(a) : COPY OF THE ORDER No. G1/7467/2011 DATED 3.1.2012 ISSUED
BY THE DIRECTOR OF DAIRY DEVELOPMENT.
- EXHIBIT R2(a) : COPY OF THE ENQUIRY REPORT DATED 05.04.2013.
- EXHIBIT R2(b) : COPY OF THE GOVERNMENT LETTER No. 27792/D2/2011/AD
DATED 03.10.2011.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 29341 of 2011

Dated this the 30th day of July, 2015

JUDGMENT

The petitioner, who was earlier a member of the fifth respondent Co-operative Society, intended, along with certain other persons of the area to establish another Co-operative Society. For the said purpose, the authorities have provided him exemption under Section 7(1)(c) of the Kerala Co-operative Societies Act by invoking Section 101 of the Act, as can be seen from Exhibit P1 order. Though the fifth respondent challenged Exhibit P1 order before this Court, through Exhibits P2 and P3 judgments, both the learned Single Judge and the learned Division Bench have dismissed the claim of the fifth respondent against Exhibit P1 order.

2. In course of time, despite its unsuccessful efforts before this Court, the fifth respondent is said to have

submitted Exhibit P5 representation before the Honourable Chief Minister, whose office has forwarded it to the second respondent. The said authority, in turn, passed Exhibit P4 order staying the operation of Exhibit P1 order, which, in fact, stood affirmed by this Court through Exhibits P2 and P3 judgments. Assailing Exhibit P4, the petitioner has filed the present writ petition.

3. In response to the submissions made by the learned counsel for the petitioner that Exhibit P4 is entirely unsustainable and is in fact contemptuous of Exhibit P3 judgment, the learned Government Pleader has submitted that Exhibit P4 was issued by the second respondent only owing to the fact that the fifth respondent had not brought to the notice of the said authority the factum of rejection of fifth respondent's claim *vis-a-vis* Exhibit P1 order passed earlier by the Government.

4. Indeed, the fifth respondent has, nevertheless, tried to defend its action by contending that it was constrained to submit an application and invited Exhibit P4 in the light of subsequent developments. The learned counsel has also contended that the petitioner and others obtained Exhibit P1

order by playing fraud, inasmuch as they do not belong to the area, where they proposed to have the Co-operative Society.

5. Be that as it may, the fact indisputably remains that Exhibit P3 judgment of the learned Division Bench of this Court has attained finality. The fifth respondent could have raised the plea of the alleged fraud before this Court at the earliest point of time when this Court rendered Exhibits P2 and P3 judgments.

6. When this Court, during the previous rounds of hearing, pointed out that Exhibit P4 order is indefensible, the learned Government Pleader, appreciably, undertook that he would apprise the authorities of the issue and that the authorities might take remedial steps in that regard. Today, across the bar, the learned Government Pleader has supplied to me a copy of G.O. (Rt) No.1240/2015/AD dated 21.07.2015, through which the second respondent dismissed the claim of the fifth respondent, apart from recalling Exhibit P4 order.

In the facts and circumstances, I do not see any issue surviving for further consideration in this writ petition.

Accordingly, the Writ Petition stands closed with a direction to the third and fourth respondents to process the request of the petitioner for registering the Co-operative Society in terms of Exhibit P1, as expeditiously as possible, provided the petitioner meets all other statutory requirements in that regard.

No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-