
(2003) 09 KL CK 0034
In the High Court Of Kerala
Case No : W.A. No. 93 of 2000

Abbas

APPELLANT

Vs

Joint Registrar of Co-operative Societies

RESPONDENT

Date of Decision : 15-09-2003

Acts Referred:

Citation : AIR 2004 Ker 152 : (2004) 1 KLT 182

Hon'ble Judges : K.A. Abdul Gafoor, J;J.M. James, J

Bench : Division Bench

Advocate : P. Chandrasekhar, for the Appellant; P.K. Shakeela, Government Pleader, A.P. Chandrasekharan, Prabha R.Menon, Pushparajan Kodoth and M. Krishnakumar, for the Respondent

Final Decision : Allowed

Judgement

K.A. Abdul Gafoor, J.—The writ petitioner is the appellant before us. He is the beneficiary of a Wakf. According to him, certain properties of the Wakf had been appropriated by certain individuals and they have mortgaged the property in favour of a co-operative society, the second respondent. He filed a complaint before the first respondent. The matter was enquired and based on the report of enquiry, Ext. P5 communication was issued to the appellant stating that as per the enquiry report, the title of the property concerned was in favour of the mortgagor. Therefore, his petition was rejected. Thereupon, he applied for a copy of the report made mention of in Ext. P5. That was also rejected. He filed the original petition impugning Exts. P5 and P6 and seeking a direction to render him a copy of the report referred to in Ext. P5. Learned Single Judge dismissed the original petition stating that even Rule 24 of the Kerala Co-operative Societies Rules did not give him an entitlement to get a copy of the report prepared by the third respondent. Rule 24(1) reads as follows:

"Any person may on payment of fees at the rates as may be prescribed by the Registrar obtain a certified copy of any public document not being a document privileged under the Indian Evidence Act, filed in the office of the Registrar,

provided that no such person shall be entitled to the supply of such copy unless he satisfies the Registrar that he requires it to seek redress in any matter in which he is aggrieved or for any other lawful purpose".

The only exception to this rule is whether it is "a document privileged under the Indian Evidence Act". The report made mention of in Ext. P5 is not such a privileged document. Of course, the stand taken in Ext. P5, that the first respondent does not have any authority to decide a dispute on the property, is perfectly justified. Even if the appellant has to seek redressal of his grievance arising from Ext. P5, he has to collect the evidence including the report, to effectively agitate his case. Rule 24 does not, in any way, bar rendering a certified copy of a public document which is not privileged under the Indian Evidence Act. It is only a report obtained on the petition submitted by the petitioner himself.

2. In such circumstances, we are of the view that in terms of Rule 24 of the Rules, the appellant is entitled to a copy of the document, provided, he remits the necessary application fee as suggested by the first respondent. The first respondent shall, within two weeks from the date of receipt of a copy of this judgment, direct the appellant/petitioner to remit the required fee, which shall be remitted within another two weeks. Thereupon a copy shall be furnished within yet another two weeks.

Writ Appeal is allowed the above extent.