
(2014) 01 KL CK 0104
In the High Court Of Kerala
Case No : W.A. No. 1436 of 2012

Abdurahiman Nagar Service Co-operative Bank Ltd.	APPELLANT
Vs	
State of Kerala	RESPONDENT

Date of Decision : 27-01-2014

Acts Referred:

Kerala Co-operative Societies Act, 1969 — Section 66A, 74F

Citation : (2014) 2 KLJ 9 : (2014) 1 KLT 664

Hon'ble Judges : Antony Dominic, J; Anil K. Narendran, J

Bench : Division Bench

Advocate : B.S. Swathy Kumar, Advocate for the Appellant; D. Somasundaram, Spl. Government Pleader and K.P. Sudheer, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Antony Dominic, J.—This appeal is filed against the judgment of the learned single Judge dismissing W.P. (C). 22669/11 filed by the appellant. In the Writ Petition, the appellant challenged Ext. P1 Circular No. 41/11, issued by the first respondent, the Government of Kerala. By this circular, the Government introduced a One Time Settlement Scheme known as "Aswas, 2011" giving waiver of the dues of the defaulters to the society for settlement of their liabilities at the rate and in the manner as stated therein. According to the appellant, in the light of the judgment of this Court in Kallettumkara Service Co-op. Bank Vs. Registrar of Co-op. Societies and Another, , the Government or the Registrar did not have power to issue such circulars. In that premise, the Writ Petition was filed seeking to invalidate the circular. Learned Judge, relying on the provisions of S. 74F of the Kerala Co-operative Societies Act, 1969, hereinafter, the "Act", for short, repelled the challenge and upheld the circular. It is this judgment, which is under appeal before us.

Having heard the learned counsel for the appellant, learned Government Pleader and the counsel appearing for the third respondent, the defaulter concerned, we are inclined to confess our inability to accept the contention raised by the

appellant. The judgment of this Court in Kallettumkara Service Co-operative Bank (supra) was rendered at a time when S. 66A of the Act was not brought into force. Further, S. 66A, as modified by Act 7 of 2010, enables the Registrar to issue general directions and guidelines to any or all of the co-operative societies in furtherance of the purpose of the Act or for implementing Government policies for the benefit of the members and the general public. As the section itself has been introduced subsequent to the judgment mentioned above, that judgment cannot be profitably relied on by the appellant to impugn Ext. P1 circular. Further, S. 74F of the Act, which also was introduced subsequent to the judgment mentioned above, reads thus:

74F. Write off of loans-Notwithstanding anything contained in any Act or Rules, no Authority or Commission, other than the Government or Registrar, shall have the power to write off agricultural or non-agricultural debts of borrowers of any society.

By virtue of this provision, the Government shall have the power to write off agricultural or non-agricultural debts of borrowers of any society.

2. In the light of the aforesaid two provisions of the Act, it is fully within the powers of the Government to issue circular in the nature of the one impugned in the Writ Petition. We do not find any merit in this appeal. It is accordingly dismissed.