

(2011) 08 KL CK 0104
In the High Court Of Kerala
Case No : O.P. (C) No. 782 of 2010

Balakrishna Pillai, Sarada Pillai, Sasikumar Pillai and
Krishnakumar Pillai

APPELLANT

Vs

The Kongorpilly Farmers Service

RESPONDENT

Date of Decision : 04-08-2011

Acts Referred:

Citation : (2011) 08 KL CK 0104

Hon'ble Judges : Thomas P. Joseph, J

Bench : Single Bench

Advocate : Liju M.P, for the Appellant; S.B. Premachandra Prabhu, for the Respondent

Final Decision : Dismissed

Judgement

Thomas P. Joseph, J.—Respondent obtained an award for recovery of certain amount from Petitioners in A.R.C. No. 559 of 2001. Pursuant to the award, property of Petitioners was sold under the provisions of the Kerala Co-operative Societies Act on 24.06.2001. The sale was confirmed on 05.06.2001 and sale certificate was issued in favour of the Respondent/decreed holder/auction purchaser. In the year, 2002, Respondent filed E.P. No. 107 of 2002 in the court of learned Sub Judge-II, North Paravur with a prayer for delivery of property. On 18.11.2010 Petitioners filed this Original Petition requesting permission to deposit the amount due to the Respondent and direct Respondent to re-convey the property to the Petitioners. Certain other alternative reliefs are also prayed for.

2. Respondent appeared through counsel and undertook that it will not take delivery of property for a period of ten days from the date of order (22.11.2010). That order was later extended and now remains in force.

3. In the meantime the request made by Petitioners to the Respondent to permit them pay the entire amount due and take back the property was placed before

the general body of Respondent on 03.07.2011. The general body accepted the request of Petitioners for re-conveyance of property on condition of their paying the entire amount due upto day, interest and cost for such re-conveyance. Now Respondent is awaiting approval of the Registrar of Co-operative Societies for the said decision.

4. Learned Counsel for Respondent submits that if the Registrar approves the decision of Respondent, the latter is prepared to re-convey the property on Petitioners paying the entire amount due till then, interest and cost for re-conveyance. Learned Counsel for Petitioners submit that Petitioners are agreeable to pay such amount and bear the expense. The submissions made are recorded.

5. In the view of the above, what is required is only to direct the executing court to keep E.P. No. 107 of 2002 in abeyance for a period of two months from this day or till the Registrar of Co-operative Societies takes appropriate decision as above stated, whichever is earlier.

Resultantly this Original Petition is disposed of in the following lines:

i. Learned Sub Judge-II, North Paravur is directed to keep E.P. No. 107 of 2002 (in A.R.C. No. 559 of 2001) in abeyance for a period of two months from this day or till the Registrar of Co-operative Societies takes appropriate decision on the resolution passed by the general body of the respondent agreeing to re-convey the property to the petitioners, whichever is earlier.

ii. It is made clear that the fate of execution petition will depend on the decision that the Registrar of Co-operative Societies takes on the resolution of the Respondent within the aforesaid period of two months.

iii. If No. such decision enabling Petitioners to get back the property is taken and No. re-conveyance is made within the said period of two months, the executing court, if the Respondent so wishes can proceed with further steps.

I.A. No. 10068 of 2011 will stand dismissed.