

(2012) 02 KL CK 0179

In the High Court Of Kerala

Case No : WA. No. 293 of 2012 in WPC/7426 of 2010

Manjeri Service Co-Operative Bank Ltd.

APPELLANT

Vs

P. Nandakumar, The Assistant Registrar, Co-Operative Societies, Manjeri - 676121 And The Joint Registrar (General), Malappuram District Co-operative Societies, Malappuram - 676505

RESPONDENT

Date of Decision : 28-02-2012

Acts Referred:

Citation : (2012) 02 KL CK 0179

Hon'ble Judges : C.N. Ramachandran Nair, J;Babu Mathew P. Joseph, J

Bench : Division Bench

Advocate : K. Shibili Naha and Smt. Rejitha Rajan, for the Appellant; D. Somasundaram, Spl. Government Pleader and Sri. K.P. Sudheer, for the Respondent

Judgement

Ramachandran Nair, J.—Heard counsel for appellant, counsel appearing for the first respondent and also the Special Government Pleader for the remaining respondents. The question that arises for consideration is whether the Joint Registrar was justified in ordering payment of the deposit amount made by the first respondent, which is for Rs. 2 lakhs. The appellant's specific case is that the first respondent deposited the amount as security for the loans arranged by him for "D" class members of the Bank. Counsel for the appellant read over the undertaking given by the first respondent which clearly states that in the event of failure of the borrowers to repay the loans the Bank can recover the loan amount from the deposit made by the first respondent. However, counsel for the first respondent has put forward a case that his party gave blank signed paper to the appellant which was filled up by the Bank and hence terms are not binding on him. What we notice is that the Bank really failed to produce these documents before the Joint Registrar and he had no occasion to see the claim of the Bank by way of lien on the deposit. We, therefore, feel one more opportunity can be granted to both the parties to establish their claim before the Joint Registrar who

should conduct a fresh enquiry and decide the first respondent's eligibility for refund. The Writ Petitions are allowed vacating the impugned judgment of the learned Single Judge and also the orders issued by the Joint Registrar against the Bank with a direction to the Joint Registrar to decide the matter afresh after going through the documents produced by the Bank and if necessary after taking evidence and after conducting enquiry within a period of 6 weeks from the date of production of a copy of this judgment.

2. For timely compliance of the judgment, the Bank and first respondent should contact Joint Registrar personally, get date of posting, produce evidence and appear on the posting date for hearing. All issues are left open to be raised and decided before the Joint Registrar.