(1993) 06 KL CK 0038

In the High Court Of Kerala

Case No : O.P. No. 4260 of 1993-F

Parvathi Amma APPELLANT

Vs

Government of Kerala and Others RESPONDENT

Date of Decision : 23-06-1993

Acts Referred:

Citation : (1995) 83 CompCas 494

Hon'ble Judges : K.G. Balakrishnan, J

Bench : Single Bench

Advocate : P.N. Purushothama Kaimal, for the Appellant; Augustine Joseph, for respondent Nos. 1 and 2 and Siby Mathew, for the Respondent

Judgement

K.B. Balakrishnan, J.—The petitioner in this case claims the benefit of the Kerala Co-operative Agricultural Rural Debt Relief Scheme, 1990 (for short "the Scheme"). This claim is opposed by the fourth respondent on two counts. Firstly, it is contended that the loan was sanctioned prior to April 1, 1986, and hence she is not entitled to the benefit of the Scheme. Secondly, it is alleged that the loan was not availed of for any of the purposes mentioned in the Scheme.

2. At first, I shall consider the question whether a person who has availed of a loan prior to April 1, 1986, is entitled to waiver of the loan amount under the provisions of the scheme. This Scheme came into force on November 15, 1990. It is intended to benefit poor agriculturists, artisans and persons engaged in small scale industries who are affected by the drought conditions during the years 1986, 1987 and 1989. The Union Government declared these years as bad crop years and decided to give relief of waiver of loans availed of by such persons from co-operative societies, Agricultural Development Banks, the State Co-operative Bank, etc. The Union Government formulated guidelines and accordingly a Scheme was prepared as the Kerala Agricultural and Rural Debt Relief Scheme, 1990. Detailed provisions have been made in the Scheme specifying the categories of persons eligible for such relief. The Scheme says that the relief of waiver shall be limited to Rs. 10,000 inclusive of interest.

3. Clause 1(c) of the Scheme says that the Scheme shall apply only to eligible loans. The term "eligible loan" has been defined as follows :

" Eligible loan means : that part of the short-term loans, including converted/ rescheduled medium term loans, loans issued for agricultural purposes against security of gold ornaments or fixed deposits irrespective of the interest rates charged on such loans and loans mentioned in note 1 in item 2 above availed of by the borrower either individually or jointly on or after April 1, 1986, and instalments of a term loan falling due after October 2, 1986, which was overdue to a bank or a primary co-operative society as on the effective date and includes overdue interest, penal interest, notice and postage charges, arbitration fees, execution charges, etc."

4. From the definition of eligible loans it is clear that in order to become eligible for the Scheme, in the case of an ordinary loan, the loan must have been sanctioned on or after April 1, 1986. In the case of term loans including converted and rescheduled medium term loans the instalments of the term loans should have fallen due after October 2, 1986. Therefore, it is clear that a person who availed of the loan prior to April 1, 1986, is not entitled to the benefit of the scheme.

5. The contention of the petitioner is that the provisions of the Scheme give some benefits to "chronic defaulters" and that is indicative of the fact that the Scheme would apply to loans sanctioned prior to April 1, 1986. It is true that the Scheme also provides some relief to chronic defaulters. The term "chronic overdues" has been explained under Clause 2, note 4, Explanation (ii). From the Explanation of chronic overdues it is clear that reference is made to overdues with banks/co-operative societies aged more than three years as on the effective date, i.e., October 2, 1989. That clause does not give any protection to debtors who availed of loans prior to April 1, 1986.

6. Counsel for the fourth respondent contended that in the instant case the petitioner availed of the loan for the purpose of meeting household expenses and so the Scheme has no application. It is clear that the provisions of the Scheme, could be applied only to agricultural loans and the term "agriculture" has been defined under clause 2. It reads as follows :

"'' agriculture '' Includes horticulture, animal husbandry, forestry, dairy and poultry farming, pisciculture (fisheries), piggery, sheep rearing, bee keeping and other allied activities, whether or not undertaken jointly with agriculture and the expression ''agricultural operations'' shall be construed accordingly."

7. It is further stated that all loans issued for agriculture including horticulture, animal husbandry, forestry, dairy and poultry farming, pisciculture and other allied activities will be eligible for relief. Loans issued for agricultural purposes against security of gold ornaments or fixed deposits would also be covered by the Scheme. Loans issued for the purchase of bullock-carts, tractors and tillers would be considered as agricultural loans. It is also stated that the loans issued to

individuals who are engaged in rural artisan activity, including cottage and village industry, handicrafts, coir, weaving and other rural crafts would be eligible for relief under the Scheme. The loan availed of by the petitioner for household expenses will not come under any of the above categories. The fourth respondent has produced relevant documents to show that the petitioner availed of the loan for meeting household expenses.

8. Under the above circumstances, I hold that the provisions of the Kerala Co-operative Agricultural, Rural Debt Relief Scheme, 1990, have no application to the loan sanctioned to the petitioner and she is not entitled to get any relief. The property of the petitioner is now on auction sale. Counsel for the petitioner submits that the petitioner would discharge the loan amount at the earliest if she is given the benefit of instalments. The counsel for the fourth respondent strongly opposes this plea. However, taking into consideration the fact that the petitioner is a 75 year old agriculturist owning this property alone she is given the benefit of instalments. She shall pay this amount by way of 8 equal monthly instalments. The first instalment shall be paid on or before August 10, 1993, and the remaining instalments shall be paid on or before 15th of the ensuing months till the entire amount is paid. If the petitioner commits default in paying any of the instalments, the fourth respondent-bank would be at liberty to proceed with the auction sale.

9. The original petition is disposed of as stated above.