(1993) 06 KL CK 0070

In the High Court Of Kerala

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

Parvathy Amma APPELLANT

Vs

State of Kerala RESPONDENT

Date of Decision : 23-06-1993

Acts Referred:

Citation : (1993) 2 KLJ 349

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

Bench : Single Bench

Advocate : P.N. Purushothama Kaimal, for the Appellant; Augustine Joseph and Siby Mathew, Govt. Pleader, for the Respondent

Judgement

K.G. Balakrishnan, J.—Petitioner in this case claims benefit of Kerala Co-operative Agricultural Rural Debt Relief scheme, 1990 (for short ''the Scheme'')- This claim is opposed by the 4th respondent on two counts. Firstly, it is contended that the loan was sanctioned prior to 1-4-1986 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. At first, I shall consider the question whether a person who availed himself of a loan prior to 1-4-1986 is entitled to waiver of the loan amount under the provisions of the scheme. This scheme came into force on 15-11-1990. It is intended to benefit the poor agriculturists, artisans and persons engaged in small scale industries who are affected by the drought conditions during the year 1986, 1987 and 1989. The Union Government declared these years as bad crop years and decided to give relief of waiver of loans availed by such person from Co-operative societies, Agricultural Development Banks, State Co-operative Bank etc. The Union Government formulated guidelines and accordingly a Scheme was prepared as 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.

2. Clause 1 (c) of the Scheme says that the Scheme shall apply to only 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 1st April, 1986 and instalments of a term loan falling due after 2nd October, 1986 which was overdue to a bank or a primary cooperative society as on the effective date and includes overdue interest, penal interest, notice and postage charges, arbitration fees, execution charges etc.

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

4. The contention of the petitioner 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 1st April, 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/cooperative societies aged more than 3 years as on the effective date i.e., 2-10-89. That clause does not give any protection to debtors who availed loan prior to 1-4-1986.

5. The counsel for the 4th respondent contended that in the instant case the petitioner availed 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, diary 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.

It is further stated that all loans issued for agriculture including horticulture, animal husbandry, forestry, diary 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. Loan availed by the petitioner for household expenses will not come under any of the above categories. The 4th respondent has produced relevant documents to show that the petitioner availed the loan for meeting household expenses. Under the above circumstances, I hold that the provisions of 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. The 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 4th respondent strongly opposes this plea. However, taking into consideration of 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 10-8-1993 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 4th respondent bank would be at liberty to proceed with the auction sale.

Original Petition is disposed of as stated above.

