

Kerala High Court

The Mullakkodi Co-Op. Rural Bank ... vs The Managing Director And Others on 28 May, 2009

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WA.No. 2759 of 2007()

1. THE MULLAKKODI CO-OP. RURAL BANK LTD.
... Petitioner

Vs

1. THE MANAGING DIRECTOR AND OTHERS
... Respondent

For Petitioner :SRI.O.D.SIVADAS

For Respondent :SRI.BABU KARUKAPADATH

The Hon'ble MR. Justice K.BALAKRISHNAN NAIR
The Hon'ble MR. Justice C.T.RAVIKUMAR

Dated :28/05/2009

O R D E R

K. BALAKRISHNAN NAIR
&

C.T. RAVIKUMAR, JJ.

W.A. NO. 2759 OF 2007

Dated this the 28th day of May, 2009

JUDGMENT

Balakrishnan Nair, J.

The appellant is a Co-operative Society. It made a Fixed Deposit of Rs.50,00,000/- with the second respondent which is an apex society. There is some dispute between the parties regarding the term of deposit. The appellant/petitioner submits that the deposit has matured, but neither the interest nor the principal amount is being released and, therefore, the Writ Petition was filed mainly seeking the following relief:

"Issue a writ of mandamus or other appropriate writ, order or direction to the 1st and 2nd respondents to disburse Rs.50,00,000/- (Rupees Fifty Lakhs only) with interest at the rate of 7.50% from 10/03/2005 to 09/09/2005 and thereafter at the rate of 13% till the date of payment by closing the Fixed Deposit Receipt No. FD/04780 dated 10/03/2005"

The learned Single Judge dismissed the Writ Petition holding that it is for the petitioner to invoke its remedy under Section 69 of the Kerala Co- operative Societies Act. Aggrieved by the said decision, this appeal is preferred.

2. At the time of admitting the appeal, this Court directed the second respondent to clear the arrears of interest, if any, payable to the appellant. The learned counsel for the second respondent submitted that in obedience to the said direction, interest was being paid promptly from time to time and if there is any default in that, the same will also be cured. Learned counsel also submitted that the interest will be paid promptly from time to time till the principal amount is paid back. We record this submission.

3. If the amount deposited is not returned, the remedy of the appellant lies before other forums and not before this Court under Article 226 of the Constitution of India. So, the learned Single Judge has rightly declined jurisdiction. Unless we find that the said decision of the learned Single Judge is perverse, we are not justified in interfering with the same in an appeal filed under Section 5 of the Kerala High Court Act.

Therefore, the Writ Appeal is closed, recording the aforementioned submission made on behalf of the second respondent regarding payment of interest.

(K. BALAKRISHNAN NAIR) JUDGE (C.T. RAVIKUMAR) JUDGE sp/ K.BALAKRISHNAN NAIR & C.T. RAVIKUMAR, JJ.

W.A. NO.2759/2007 JUDGMENT 28h May, 2009