2025:KER:28428

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

THURSDAY, THE 3RD DAY OF APRIL 2025 / 13TH CHAITHRA, 1947

WP(C) NO. 12209 OF 2022

PETITIONER:

NADUVANNUR REGIONAL CO-OPERATIVE BANK LTD NO.1269,NADUVANNUR, KOZHIKODE-673 614, REPRESENTED BY ITS SECRETARY

BY ADVS. P.P.JACOB
ANU V. KUTTAN,JOHANS JACOB P.

RESPONDENTS:

1 **THE LIQUIDATOR / KOYILANDY UNIT INSPECTOR OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), KOYILANDY-673 001, KOZHIKODE DISTRICT**

2 **THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G),**

KOZHIKODE, OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), PUTHIYARA, KOZHIKODE-673 004

3 **THE KAVUNTHARA SERVICE CO-OPERATIVE BANK LTD NO D 3205, SAFA BUILDING PALLIYATHKUNI, KAVIL P.O.NADUVANNUR, KOZHIKODE-673 614. REPRESENTED BY ITS SECRETARY**

4 **THE STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT , DEPARTMENT OF CO-OPERATION, SECRETARIAT, THIRUVANANTHAPURAM-695 001**

BY ADV M.SASINDRAN

OTHER PRESENT:

GP- NIMA JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03.04.2025, ALONG WITH WP(C).20591/2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

THURSDAY, THE 3RD DAY OF APRIL 2025 / 13TH CHAITHRA, 1947

WP(C) NO. 20591 OF 2022

PETITIONER:

THE NADUVANNUR REGIONAL CO-OPERATIVE BANK LTD., NO.F 1269, NADUVANNUR, KOZHIKODE - 673 614, REPRESENTED BY ITS SECRETARY.

BY ADVS.P.P.JACOB
JOHANS JACOB P.

RESPONDENTS:

1 **THE LIQUIDATOR / KOYILANDY UNIT INSPECTOR OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), KOYILANDY - 673 001, KOZHIKODE DISTRICT.**

2 **THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G) KOZHIKODE, OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), PUTHIYARA, KOZHIKODE - 673 004.**

3 **THE KAVUNTHARA SERVICE CO-OPERATIVE BANK LTD.NO.D 3205 SAFA BUILDING PALLIYATHKUNI, KAVIL P.O., NADUVANNUR, KOZHIKODE - 673 614 REPRESENTED BY ITS SECRETARY.**

4 **THE STATE OF KERALA REPRESENTED BY SECRETARY TO GOVERNMENT, DEPARTMENT OF CO-OPERATION, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**

BY ADV M.SASINDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03.04.2025, ALONG WITH WP(C).12209/2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

VIJU ABRAHAM, J.

.....

W.P.(C) Nos.12209 and 20591 of 2022

.....

Dated this the 3rd day of April, 2025

JUDGMENT

Since common issues are raised in these writ petitions, they are heard and disposed of by this common judgment.

WP(C) No.12209 of 2022

2. The above writ petition is filed seeking a direction to the 2nd respondent to finalise and complete the procedural formalities in the matter of liquidation of the defunct Naduvannur Service Co-operative Bank Ltd. No.LL 68 by implementing the direction contained in Ext.P7 judgment.

3. Petitioner is a co-operative society. A nearby society by name Naduvannur Service Co-operative Bank Ltd. No.LL 68 become defunct and the 2nd respondent ordered liquidation appointing the 1st respondent as liquidator in order to complete the proceedings of liquidation. The 1st respondent had proceeded with the liquidation proceedings and the general body of the petitioner took a resolution to the effect that the petitioner is prepared to take over the assets and

liabilities of the defunct society and the said resolution was forwarded to the liquidator. The liquidator convened a meeting of the general body of the defunct society on 27.12.2011. No 'A' class members attended the meeting and the liquidator exercising the power as per law had taken a decision to handover the assets and liabilities by acting upon the resolution of the general body of the petitioner society. The liquidator after completing the proceedings submitted Ext.P1 report before the Joint Registrar of Co-operative Societies. Certain persons claiming to be members of the defunct society has approached this Court filing W.P.(C) No.17295 of 2013 contending that the liquidation proceedings need not be proceeded and that the functioning of the society can be revived. The said writ petition was disposed of directing the Joint Registrar to consider the matter. Thereafter the Joint Registrar considered the applications and rejected the same confirming the resolution of the liquidator as per Ext.P2 order. Challenging the said order they again approached this Court filing W.P.(C) No.31432 of 2013. The said writ petition was dismissed by Ext.P3. Pursuant to the same as per Ext.P4 proceedings the Joint Registrar considered all the matters and rejected all the contentions raised against the proceedings of the liquidator and directed the Assistant Registrar, Koyilandy to complete

all the proceedings. Later Ext.P5 resolution was passed by the petitioner society requesting the Joint Registrar through the Assistant Registrar to finalise the proceedings of liquidation and for transfer of assets and liabilities to the petitioner. Ext.P6 request was also made to the Joint Registrar. Alleging inaction, petitioner has filed W.P.(C) No.10667 of 2019 with a prayer to finalise the proceedings for transfer of assets to the petitioner society and this Court by Ext.P7 judgment directed to complete the proceedings within a period of six months. While proceedings are going on, the 3rd respondent Co-operative Bank taking advantage of the changed political circumstances filed a representation before the Government requesting that the assets of the defunct society may be handed over to them. The Government forwarded the said representation to the Joint Registrar for further action and the Joint Registrar by Ext.P8 order rejected the request holding that all proceedings of liquidation have been completed. Ext.P8 order was challenged by the 3rd respondent filing W.P.(C) No.26191 of 2019. This Court by Ext.P9 judgment directed the Government to consider the representation/appeal as an appeal under Section 83(1)(f) of the Kerala Co-operative Societies Act and to pass orders thereon. Though the petitioner challenged Ext.P9 judgment in W.A.No.240 of

2022, the same was not entertained. The grievance raised by the petitioner is that the proceedings have not been finalised in spite of the specific directions issued by this Court in Ext.P1 to finalise the proceedings without any delay.

WP(C) No.20591 of 2022

4. On the basis of the direction issued by this Court in Ext.P9 judgment in W.P.(C) No.12209 of 2022 the Government passed Ext.P10 order setting aside Ext.P4 order whereby a direction was issued by the Joint Registrar to the Assistant Registrar to complete the proceedings of liquidation and directed the Joint Registrar to issue fresh orders subject to the directions in the judgments rendered by this Court. It is challenging Ext.P10 order to the extent it set side Ext.P4 order that the present writ petition was filed.

5. Petitioner submits that Ext.P9 judgment in W.P.(C) No.26191 of 2019 was challenged in W.A. No.240 of 2022, which culminated in Ext.P12 judgment and the court modified the judgment impugned holding that the consideration as mentioned in the judgment is only to consider Ext.P11 representation and the reference in Ext.P9 judgment regarding the winding up order that it is appealable before the Government under Section 83(1)(f) of the Kerala Co-operative Societies Act is certainly a mistake and no

advantage can be taken on the said observation and that the direction need be considered only to treat as a representation preferred by the 3rd respondent before the Government. Learned counsel further submits that after the order was issued by the Joint Registrar regarding the transfer of assets and liabilities of the society the said proceedings was published in gazette dated 09.07.2018 as evident from Ext.P10 produced in W.P.(C) No.12209 of 2022 and pursuant to the direction issued by this Court in Ext.P7 judgment produced in W.P.(C) No.12209 of 2022 issued Ext.P11 notice through daily newspapers inviting objections or claims whatever manner referring to the finalisation of the liquidation proceedings.

6. A detailed counter affidavit has been filed by the 3rd respondent in W.P.(C) No.20591 of 2022 contending that it is Primary Agricultural Co-operative Society having same business in the same area of operation of the co-operate society under liquidation. The 1st respondent is the liquidator appointed under Section 72 of the Kerala Co-operative Societies Act for carrying out the winding up proceedings of a defunct co-operative society and going by Section 72 of the Act, the whole assets of the co-operative society under liquidation are vested with the liquidator. It is further contended that the only asset of the co-operative society under liquidation is a landed

property of 14 cents. Thereupon petitioner came up with a request that they are willing to take up the assets and liabilities of the society under liquidation. It is further stated that the liability of the society is Rs.47,92,063.83. The approval for transfer of assets and liabilities of defunct society is improper as no general body of the defunct society has taken place on 27.12.2011 and no such resolution or decision was taken as stated in Ext.P1. The liquidator appointed under Section 72 of the Kerala Co-operative Societies Act cannot issue any notice under Section 14 of the Act which is a provision dealing with amalgamation. Therefore, Ext.P1 order issued by the 2nd respondent was erroneously approved by a resolution taken by the 1st respondent. The proceedings now initiated directing the transfer of assets and liabilities of the society to the petitioner is without following the procedures for winding up as per Section 73 of the Kerala Co-operative Societies Act and Rule 69 of the Kerala Co-operative Societies Rules. Thereupon challenging Ext.P4 proceedings of the Joint Registrar granting permission to the liquidator to transfer the assets to the petitioner society the 3rd respondent had filed an appeal before the Government. While the said appeal was pending consideration petitioner filed W.P.(C) No.10667 of 2019 and since none of the parties apprise the Court about the pendency of the

appeal, Ext.P7 judgment was issued directing to implement Ext.P2 directions in the said writ petition within a time frame. It is the further contention that the valuation of assets of the society under liquidation done by the liquidator as per Ext.P3 report is only Rs.14,87,475.22 when the value of the land as per the valuation of the Tahsildar was Rs.17,98,260/- and the value of the building as per the valuation of the PWD Assistant Engineer (Buildings) was Rs.4,49,021/- which is much lower than the amount that may be received of the land in auction and therefore the decision of the liquidator to transfer the entire property to the petitioner society is arbitrary. These aspects were not taken into consideration by the Joint Registrar while issuing Ext.P4 or Ext.P8. It is taking all these aspects into consideration that by Ext.P10 order Ext.P4 order of the Joint Registrar was set aside and directed reconsideration of the same. The specific case of the 3rd respondent in the counter affidavit is that elaborate procedures are prescribed in the Kerala Co-operative Societies Act regarding winding up of a society and duties and responsibilities of a liquidator. In Rule 69 of the Kerala Co-operative Societies Rules the procedures to be adopted in the course of winding up are provided and none of the provisions empowered the liquidator to transfer the assets and liabilities merely on expressing willingness by another co-operative

society. The fact that nobody turned up for the general body meeting is not a reason for acting arbitrarily and unilaterally by the liquidator. The assets of the society will have to be disposed of by the liquidator in accordance with law and transferring of a property worth crores to another society by the liquidator is absolutely without backing of any law and it is in the said circumstance that the Government has interfered with the same as per Ext.P10. Therefore, it is submitted that no interference is called for on Ext.P10 order.

7. I have heard the rival contentions on both sides.

8. W.P.(C) No.12209 of 2022 is filed seeking to finalise and complete the procedural formalities in the matter of liquidation of the defunct Naduvannur Service Co-operative Bank Ltd. No.LL 68 by implementing the direction contained in Ext.P7 judgment. By Ext.P4 order dated 28.06.2018 the Joint Registrar of Co-operative Societies (General), Kozhikode issued orders regarding transfer of assets of the defunct Naduvannur Service Co-operative Bank Ltd. No.LL 68 to Naduvannur Regional Co-operative Bank Ltd. No.F 1269. (Though the word used is ‘amalgamation’, what is in fact done as per Ext.P4 is the transfer of assets of defunct society.) Later this Court by Ext.P7 judgment in W.P.(C) No.10667 of 2019, filed by the petitioners seeking implementation of Ext.P4 order, disposed of the same

directing respondents 2 and 4 therein to implement Ext.P4 order within a period of six months from the date of receipt of a copy of the judgment taking into consideration the submission made by the learned Senior Government Pleader that all action required to be taken by the Joint Registrar of Co-operative Societies have already been concluded and that the final steps for effectuation of the amalgamation is to be taken by the 2nd respondent - Liquidator under the supervision of the 4th respondent - Assistant Registrar of Co-operative Societies. It was further submitted by the learned Senior Government Pleader on behalf of the respondents that on account of various administrative contingencies there is slight delay in implementing Ext.P4 and the same would be completed within an outer limit of six months. Later entire proceedings and procedures for transfer of assets have been completed. While so the 3rd respondent society submitted a request before the Government requesting that assets of the defunct society may be handed over to them. The Government forwarded the representation to the Joint Registrar for further action and the Joint Registrar of Co-operative Societies (General), Kozhikode by Ext.P8 order rejected the claim of the 3rd respondent holding that all the proceedings of the liquidation have been completed. Petitioner's specific case is that it is only due to

change in political circumstance that such a request was made by the 3rd respondent. A perusal of Ext.P8 would reveal that by Ext.P4 the assets have been transferred to the petitioner society and the same has been published in Kerala Gazette of 04.09.2018 in Book No.35, Volume VII. So the proceedings have been initiated and finalised based on Ext.P7 judgment in W.P.(C) No.10667 of 2019 which was passed based on the assurance given by the learned Senior Government Pleader appearing on behalf of the respondents that all the proceedings will be completed within a period of six months. It is thereafter that the 3rd respondent approached this Court filing W.P(C) No.26191 of 2019 and this Court as per Ext.P9 judgment directed that if the 3rd respondent is aggrieved by Ext.P8 order rejecting their claim, they will have to file an appeal before the Government. In the appeal filed by the 3rd respondent Ext.P10 order (produced in W.P.(C) No.20591 of 2022) was issued, whereby Ext.P4 order of the Joint Registrar dated 28.06.2018 produced in W.P.(C) No.12209 of 2022 was set aside. Though the said order was set aside the Government directed the Joint Registrar of Co-operative Societies (General) to reconsider the matter taking into consideration the changed circumstances and in the light of the decisions of this Court. In Ext.P10 there is a finding to the effect that as per Section 14(1)(a) of

the Kerala Co-operative Societies Act, 1969 there cannot be any amalgamation of two societies but only the assets of the defunct society could be transferred to another society. It is true that in Ext.P4 the wording used is amalgamation, but in fact all through out the request made by the petitioner was for transfer of assets of the defunct co-operative society. A perusal of Ext.P1 order of the Joint Registrar of Co-operative Societies (General) would reveal that it was a case of transfer of assets of the defunct society to the petitioner society. Therefore for the reason that the word used in Ext.P4 is amalgamation, the Government ought not have set aside Ext.P4 and it is to be presumed in the light of Ext.P1 order that the proceedings that has been initiated is for transfer of assets of the defunct society to the petitioner society.

9. Yet another aspect to be noted is that after Ext.P4 order was issued by the Joint Registrar of Co-operative Societies (General) whereby the assets of the defunct society was ordered to be transferred to the petitioner society, petitioner approached this Court filing W.P.(C) No.10667 of 2019 and as stated above, based on an undertaking given by the learned Senior Government Pleader that further proceedings in this regard will be taken without any delay that this Court issued a direction to respondents 2 and 4 to implement

Ext.P4 within a period of six months. So there is a specific direction issued by this Court as per Ext.P7 to implement Ext.P4 and a perusal of Ext.P8 order produced in W.P.(C) No.12209 of 2022 would reveal that all proceedings have been completed including gazette notification regarding transfer of assets and on the basis of the same the request made by the 3rd respondent has been rejected. The Government was well aware of the fact that there is a positive direction issued by this Court in Ext.P7 judgment in W.P.(C) No.10667 of 2019 on the basis of a specific undertaking given by the Government that further steps for transfer of assets of the defunct society to the petitioner society will be completed within a period of six months and therefore the Government while issuing Ext.P10 order has consciously directed the Joint Registrar to reconsider the matter in the light of the judgments of this Court. Ext.P7 judgment has not been challenged in appeal and the same has become final. Based on the said direction further proceedings have been completed including the gazette notification regarding the transfer of assets to the petitioner society. In the above facts and circumstances of the case I am of the view that the Government before issuing Ext.P10 order ought to have considered that a specific direction has been issued by this Court in Ext.P7 judgment which has become final and that based

on the same the proceedings for transfer of assets have been finalised including publication of the gazette notification. This Court in **S.Madhavikutty v. State of Kerala and others, 2008 (1) KHC 174** has considered a similar issue and held that the authorities cannot ignore the orders issued by this Court and if it is irregular it has to be corrected by filing a review or else it should be corrected by way of an appeal and that as long as the judgment of this Court remains, no authority can ignore that. Relevant portion of the said judgment reads as follows:

> *"4. Further, the Registrar considered the matter pursuant to the direction of the Division Bench of this Court, which is a superior Court of unlimited jurisdiction. Its order cannot be treated as a void order and it cannot be ignored. If it is irregular, it has to be corrected by filing a review. Otherwise, the order can be corrected, only in appeal. As long as the Division Bench Judgment remains in force, no one can ignore that. ....."*

The Government was well aware of this legal position and also aware that it cannot simply ignore the direction issued by this Court in Ext.P7 judgment in W.P.(C) No.10667 of 2019 and that is why while setting aside Ext.P4 order has directed the Joint Registrar of Co-operative Societies to reconsider the matter in the light of the judgments of this Court.

In the light of the above, I am of the opinion that before

taking a decision to set aside Ext.P4 order and remitting the matter back to the Joint Registrar of Co-operative Societies (General) as done by Ext.P10 order, the Government was duty bound to consider the direction in Ext.P7 judgment which has become final and that based on the same all proceedings for transfer of assets of the defunct society to the petitioner society have been completed including publication of the gazette notification. Since these aspects were not considered while passing Ext.P10 order, I am of the opinion that the matter requires interference by this Court. Accordingly the writ petitions are disposed of as follows:

Ext.P10 order in W.P.(C) No.20591 of 2022 is set aside with a consequential direction to the Government to reconsider the matter in the light of the observations made above and take a final decision in the matter within an outer limit of three months from the date of receipt of a copy of the judgment, after affording an opportunity of being heard to the petitioner and the 3rd respondent in W.P.(C) No.20591 of 2022.

Sd/-

VIJU ABRAHAM
JUDGE

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APPENDIX OF WP(C) 12209/2022

PETITIONER EXHIBITS

Exhibit P1	**TRUE PHOTOCOPY OF THE REPORT SUBMITTED BY THE LIQUIDATOR BEFORE THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, KOZHIKODE DATED NIL**
Exhibit P2	**TRUE PHOTOCOPY OF THE ORDER DATED 18.10.2013 ISSUED BY THE JOINT REGISTRAR**
Exhibit P3	**TRUE PHOTOCOPY OF THE JUDGMENT IN W[C NO 31432/18 DATED 3.7.2015**
Exhibit P4	**TRUE PHOTOCOPY OF THE ORDER DATED 28.6.2018 ISSUED BY THE JOINT REGISTRAR**
Exhibit P5	**TRUE PHOTOCOPY OF THE RESOLUTION NO 9 DATED 6.6.2017 OF THE PETITIONER BANK**
Exhibit P6	**TRUE PHOTOCOPY OF THE REPRESENTATION SUBMITTED TO THE JOINT REGISTRAR THROUGH THE ASSISTANT REGISTRAR DATED 7.6.17**
Exhibit P7	**TRUE PHOTOCOPY OF THE JUDGMENT IN 10667/2019 DATED 10.4.2019**
Exhibit P8	**TRUE PHOTOCOPY OF THE ORDER DATED 18.7.2019 ISSUED BY THE JOINT REGISTRAR**
Exhibit P9	**TRUE PHOTOCOPY OF THE JUDGMENT IN WPC 26191/19 DATED 3.2.2022**
Exhibit P10	**TRUE PHOTOCOPY OF THE KERALA GAZETTE NO S.C.T.M 2964/2018 DATED 9.7.2018**
Exhibit P11	**TRUE PHOTOCOPY OF THE NOTIFICATION PUBLISHED IN MALAYALA MANORAMA DAILY DATED 29.9.12019**

APPENDIX OF WP(C) 20591/2022

PETITIONER EXHIBITS

Exhibit P1	**TRUE PHOTOCOPY OF THE ORDER DATED 18/10/2013 ISSUED BY THE JOINT REGISTRAR.**
Exhibit P2	**TRUE PHOTOCOPY OF THE JUDGMENT IN WP(C) NO.31432/13 DATED 3/7/2015.**
Exhibit P3	**TRUE PHOTOCOPY OF THE REPORT FILED BY THE LIQUIDATOR TO THE SECOND RESPONDENT DATED NIL.**
Exhibit P4	**TRUE PHOTOCOPY OF THE ORDER DATED 28/6/2018 ISSUED BY THE JOINT REGISTRAR.**
Exhibit P5	**TRUE PHOTOCOPY OF THE RESOLUTION NO.9 DATED 6/6/2017 OF THE PETITIONER BANK.**
Exhibit P6	**TRUE PHOTOCOPY OF THE REPRESENTATION SUBMITTED TO THE JOINT REGISTRAR THROUGH THE ASSISTANT REGISTRAR DATED 7/6/17.**
Exhibit P7	**TRUE PHOTOCOPY OF THE JUDGMENT IN 10667/2019 DATED 10/4/2019.**
Exhibit P8	**TRUE PHOTOCOPY OF THE ORDER DATED 18/7/2019 ISSUED BY THE JOINT REGISTRAR.**
Exhibit P9	**TRUE PHOTOCOPY OF THE JUDGMENT IN WP(C) 26191/19 DATED 3/2/2022.**
Exhibit P10	**TRUE PHOTOCOPY OF THE ORDER DATED 10/6/22 VIDE NO.G.O.(RT) 405/2022/CO-OP.**
Exhibit P11	**TRUE PHOTOCOPY OF THE REPRESENTATION DATED 5.8.2018 ALONG WITH TYPED COPY**
Exhibit P12	**TRUE PHOTOCOPY OF THE JUDGMENT IN W.A 240/22 DATED 2.3.22**