

SUPREME COURT OF INDIA

Kerala Financial Corporation

Vs.

C.G.Narayanan

C.A.No.1118 of 2011

(K.S.Radhakrishnan and Dipak Misra JJ.)

04.12.2012

ORDER

1. Petitioner - Kerala Financial Corporation (for short "Corporation") sanctioned a loan of Rs.2,65,000/- to the respondent and the order was communicated to the respondent by the Sanctioning Letter No. C1/646/2245/75 dated 29.12.1975 (Annexure P/1). Corporation submits as per Clause 31 of the Sanctioning letter, the Corporation has a right to make enhancement of rate of interest on loan from time to time. According to the Corporation, the respondent committed default in making regular payment of the loan amount, consequently, the Corporation enhanced the rate of interest to 11.75% per annum. Notice of enhancement of the rate of interest was also issued and served on the respondent.

2. Aggrieved by the said notice, respondent filed a suit being O.S. No. 479 of 1995 before the Munsif Court at Trichur, for an order of declaration that the respondent is liable to pay interest only at the rate of 5.5% per annum. Learned Munsif Court decreed the suit as prayed for. Corporation, aggrieved by the said judgment of the Munsif Court, preferred an appeal being A.S. No.123 of 1991 before the District Court and the District Court also dismissed the appeal.

3. Aggrieved by the same, the Corporation preferred a second appeal being S.A. No. 869 of 1996 before the High Court, which was dismissed by the High Court. The concurrent findings recorded by the courts below are under challenge in this special leave petition.

4. We notice that the Courts below, including the High Court, placed reliance on the judgment of the Kerala High Court in *P.J. Mathew v. Kerala Financial Corporation* (1989) 1 KLT 904, against the Corporation claiming the enhanced rate of interest, over and above 5.5% per annum. Courts below found that, on facts, the respondent is entitled to get the benefit of that judgment. Judgment of the Kerala High Court in *P.J. Mathew* (supra) was challenged by the Corporation before this Court in SLP (C) No. 409/89. That SLP was heard along with SLP No. 413/89 and was dismissed vide order dated 10.07.1989.

5. Under such circumstances, we find no reason to entertain this petition and the same stands dismissed.