

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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WRIT PETITION No.4826 OF 2005

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ORDER:

The instant Writ Petition is filed seeking *Mandamus* to set aside the demand notice, dated 30-01-2005 in Form No.6 on the file of the Deputy Registrar of Cooperative Societies, Medak; notice of attachment of immovable property, dated 30-01-2005 in Form No.7 on the file of the Sale Officer, Office of the Deputy Registrar of Cooperative Societies, Medak; and consequential sale notice, dated 11-02-2005 issued in Form Nos.8 and 9 on the file of respondent No.1 as illegal, arbitrary and unconstitutional.

2. The stand of the petitioners is that Sri G. Narasimha Reddy, the husband of petitioner No.1 and father of petitioner No.2, was Ex President of the Primary Agricultural Cooperative Society Limited, Kodekal village, Andole Mandal, Medak District. He died on 06-02-2001 and after his death, the respondents initiated proceedings against him alleging that he misappropriated certain amounts. According to them, the proceedings against dead person are void *abinitio*.

3. In the counter, it is alleged by respondent No.1 that Sri G. Narasimha Reddy held the said post for the period from July, 1995 to 05-02-2001; an inquiry was conducted under Section 51 of the Andhra Pradesh Cooperative Societies Act, 1964 (Act No.7 of 1964) (for short 'the Act') into the affairs of the Primary Agricultural Cooperative Society, and it was found that an amount of Rs.15,64,526/- has been misappropriated by the President as well as the Secretary by way of *benami* loans and Inquiry Officer fixed the responsibility on both of them with 50% equal liability at Rs.7,82,263/- and, consequently, surcharge proceedings were also issued under Section 60 (1) of the Act, dated 15-05-2004. It is also alleged that ample opportunity was given to

him and, thereafter, execution proceedings were initiated attaching movables and immovable assets of legal representatives of the said G. Narasimha Reddy.

4. Heard Sri N. Sridhar Reddy, learned counsel for the petitioners and the learned Government Pleader for Cooperation.

5. It is the submission of the learned counsel for the petitioners that the death of Sri G. Narasimha Reddy occurred on 06-02-2001, and the proceedings were concluded only after his death and the authorities were not authorized to proceed and continue the proceedings against a dead person and, thus, the proceedings initiated by the authorities against Sri G. Narasimha Reddy are void *abinitio* and, on that ground, he sought to set aside the notices referred to in the above.

6 . Death Certificate of Sri G. Narasimha Reddy is placed on record to substantiate that the death of G. Narasimha Reddy occurred on 06-02-2001. The learned Government Pleader for Cooperation does not dispute the same and fairly concedes that the proceedings are void *abinitio* for the reason proceedings were initiated against a dead person. However, requested to give an opportunity to proceed against the petitioners, who are legal representatives of Sri G. Narasimha Reddy, in case, the respondents are authorized by law to initiate proceedings

7. In that view of the matter, the instant Writ Petition is allowed setting aside the demand notice, dated 30-01-2005 in Form No.6 on the file of the Deputy Registrar of Cooperative Societies, Medak; notice of attachment of immovable property, dated

30-01-2005 in Form No.7 on the file of the Sale Officer, Office of the Deputy Registrar of Cooperative Societies, Medak; and the consequential sale notice, dated 11-02-2005 issued in Form Nos.8 and 9 on the file of respondent No.1. However, it is open for the respondents to proceed against the petitioners in

accordance with law. No order as to costs.

8 . As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, stand disposed of.

A. SHANKAR NARAYANA, J

November 04, 2015.

Mgr