

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.3084 of 2010

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Between:

Dharmapuram Srinivasulu

PETITIONER

AND

1. The Government of A.P. rep. by its Principal Secretary, Societies, & Cooperative Societies Department, Secretariat, Hyderabad, and others.

RESPONDENTS

ORDER:

The order of the I Additional District Judge, Mahabubnagar, dated 13.07.2009 passed under Section 23 of the A.P. Societies Registration Act, 2001 (for short 'the Act') is under challenge in this writ petition.

The petitioner filed S.R.O.P.No.1 of 2008 seeking a direction to the respondents 1 to 3 seeking to provide service i.e., stamping on the bills and other necessary services entitled by him in his business activities, to him by restraining respondents 1 to 3 from interfering with his business affairs. The case of the

petitioner was that he is a General Merchant and Commission Agent at New Gunj, Mahabubnagar and having business in the market yard. The petitioner is a registered member of the 3rd respondent-Association. The members of the 3rd respondent-association are authorized to do purchase and sale of grains in the market yard from farmers and other business people and the purchasers of grains have to issue cheques or pay the amount through association only to the credit of members by stamping on the bills. The Executive Committee of the 3rd respondent issued Circular dated 28.10.2005 stating that the purchasers shall not pay the amount without the stamp of the association in the model prescribed, and the same came into force from 07.11.2005. While so, the petitioner made certain transactions with the 6th and 7th respondents, but respondent Nos.6 and 7 did not pay the purchase money, and on enquiry they asked the petitioner to get the stamp of association and unless the stamp of the association was obtained no payment can be made. Then on 20.07.2006, the petitioner approached the 3rd respondent, who refused to give the cheque on the ground that the petitioner did not pay the security amount to the association. The petitioner made an application on 10.11.2006 mentioning all the facts, but respondents 3 and 4 did not provide service due to which the petitioner sustained loss. Therefore, the petitioner filed O.S.No.86 of 2007 before the Sub-Judge, Mahabubnagar, for recovery of amount of Rs.5 lakhs along with interlocutory application being I.A.No.378 of 2007 and the same was dismissed on technical grounds. Thereafter the petitioner filed S.R.O.P.No.1 of 2008 before the I Additional District Judge, Mahabubnagar, which was dismissed on 13.07.2009. Challenging the same, the petitioner filed the present writ petition.

It is the contention of the petitioner is that the payment of 10% value of purchase as stamping to the merchant association, and making it mandatory is illegal and impermissible and goes against the Market Committee Act and the Rules made thereunder.

Heard learned counsel for the petitioner, learned Government Pleader for Revenue for respondents 1 and 2, and Sri K. Venkatesh Gupta for respondents 3, 4 and 5.

As seen from the order of the Tribunal, the Tribunal recorded a finding that there is no dispute that the 1st respondent has already withdrawn circular in question which the petitioner is alleging that it is coming in his way to do business.

In the circumstances of the case, the petitioner has no legally enforceable right or agreement with the 1st respondent to get a particular type of service and dismissed the O.P.

Admittedly the finding recorded by the Tribunal has not been challenged by the petitioner before this Court. Further, interference of this Court in the matters of this nature, especially, challenging the orders of the Tribunal to the extent of judicial review, is limited.

It is not the contention of the learned counsel for the petitioner that the Tribunal lacks jurisdiction as petitioner himself filed the application before the Tribunal invoking Section 23 of the Act, seeking adjudication of disputes raised by him. It is also not the case of the petitioner that he has not been provided with adequate opportunity of adducing evidence and hearing. In the absence of these twin conditions, and in the peculiar circumstances of the case, this Court's jurisdiction under Article 226 of the Constitution of India is limited. Further, as per the finding of the Tribunal the circular dated 28.10.2005 itself has been withdrawn, there is no merit in the writ petition and the same is liable to be dismissed.

Accordingly the writ petition is dismissed. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

24th November, 2015

Js.