

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.18100 of 2012

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Dated 02nd June, 2015

Between:

Aka Prameela

...Petitioner

And

Cooperative Sub-Registrar, Arbitration & Execution, the Warangal District
Cooperative Central Bank Limited, Subedari, Hanamkonda, Warangal and others

...Respondents

Counsel for the petitioner: Sri Jithender Rao Veeramalla

Counsel for the respondents: ----

The Court made the following:

ORDER:

This writ petition is filed for a mandamus to declare the action of the respondents in insisting on payment of tractor loan pertaining to Account bearing No.71/NBD & 50/LT/RSL, dated 21.08.1999, on the file of respondent No.2, as illegal and arbitrary.

At the hearing, there is no representation for the respondents.

I have heard Sri Jithender Rao Veeramalla, learned counsel for the petitioner, and perused the record.

The petitioner averred that during his lifetime, her husband had availed a tractor loan from respondent No.2 and that he died on 09.02.2011. She has further pleaded that on 19.03.2012, respondent No.1 has got a notice affixed on the notice board of the Village Panchayat in the name of her husband and that feeling aggrieved by the same, she has submitted representations to the respondents. It is her further case that during the lifetime of her husband, the tractor was seized by respondent No.2 for non-payment of the loan instalments and that having so seized, there is no justification on the part of the respondents in insisting on payment of the loan amount.

No counter affidavit is filed by either of the respondents.

A perusal of the notice, dated 19.03.2012, issued by respondent No.1 shows that the same is in the nature of a notice issued under Section 71 of the A.P.Cooperative Societies Act, 1964 (for short 'the Act') calling upon the petitioner to appear before him on 07.04.2012 at 12.00 noon to answer the claim of respondent No.2 for issue of certificate under the above-mentioned provision. Instead of appearing before respondent No.1 and pleading her case, the petitioner has needlessly invoked the jurisdiction of this Court under Article 226 of the Constitution of India.

In my opinion, the writ petition is premature as no order adverse to the interests of the petitioner was passed when the same was filed. The petitioner ought to have appeared before respondent No.1 and availed further remedies in the event a certificate was issued against her in the proceedings initiated at the instance of respondent No.2.

The learned counsel for the petitioner has submitted that so far no certificate has been issued by respondent No.1 under Section 71 of the Act. If that be so, the petitioner is permitted to submit her objections before respondent No.1 and the latter in such event shall consider and pass an appropriate order. Conversely, if a certificate has already been issued, the petitioner shall be free to question the same by availing appropriate remedy under the provisions of the Act.

Subject to the above directions and liberty given to the petitioner as above,

the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.23186 of 2012 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

02nd June, 2015

VGB