

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.19442 of 2015

ORDER :

In this Writ Petition the petitioner challenges the order dt.11.12.2014 in I.A.No.55 of 2014 in O.P.No.51 of 2014 of the 3rd respondent.

2. The 1st respondent herein had initiated proceedings against the petitioner under Section 36 of the Andhra Pradesh Mutually Aided Co-operative Societies Act, 1995 read with Section 73 of the Andhra Pradesh Co-operative Societies Act, 1964, seeking recovery of a sum of Rs.4,07,048/- with future interest at the rate of 13 per cent per annum from the respondent.
3. Pending O.P., the 1st respondent filed I.A.No.55 of 2014 seeking attachment of the amounts lying to the account of petitioner in his Savings Bank Account, Andhra Bank, Karimnagar Branch.
4. By order dt.08.06.2015, the 3rd respondent directed the attachment of all the amounts lying in his Savings Bank Account.
5. Questioning the same, the present Writ Petition is filed.
6. The counsel for petitioner contends that in the Savings Bank Account several retirement benefits such as General Provident Fund, Death-cum-Retirement Gratuity and Pension benefit, which were granted to him by his employer, have been deposited and these amounts are not liable for attachment. He also placed reliance on the judgment of the Supreme Court in **Radhey Shyam Gupta v. Punjab National Bank and another**

in support of his plea that even after the pensionary benefits have been received by an employee in cash, they cannot be attached since they do not lose their character as such and continue to be covered by proviso (g) to Section 60 (1) C.P.C.

7. The counsel for 1st respondent did not dispute the above proposition, but contended that an amount of Rs.2,80,140/- towards Leave Encashment was credited on 10.12.2014, a day before the *ex parte* interim order was granted by 3rd respondent on 11.12.2014 in the said I.A., and that the petitioner cannot claim that this amount is exempt from attachment.
8. In this view of the matter, the amount of Rs.2,80,140/- only lying to the credit of petitioner's Savings Bank Account in Andhra Bank, Karimnagar Branch is liable for attachment and not the other amounts deposited towards retirement benefits such as General Provident Fund, Death-cum-Retirement Gratuity or pension in the said account. The order dt.08.06.2015 in I.A.No.55 of 2014 in O.P.No.51 of 2014 is modified accordingly.
9. The Writ Petition is allowed to the above extent only. No order as to costs.
10. Since the petitioner is a retired person, the 3rd respondent is directed to decide the said O.P. within a period of six (06) months from the date of receipt of a copy of this order.
11. As a sequel, miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 20.11.2015

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