

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.400 of 2006

Date: 17.12.2015

Between:

K. Narasimha Reddy,
Nalgonda District.

.... Petitioner

And

The Deputy Registrar of Cooperative Societies,
Bhongir, Nalgonda District.

... Respondent

1

1

1

1

1

—

—

—

—

—

—

-
-
-
-
-
-
-

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.400 of 2006

ORDER:

The petitioner questions the notice dated 06.12.2005 issued by the respondent under Rule 52 (1)(b) and (c) of the Andhra Pradesh Cooperative Societies Rules, 1964 directing him to pay a sum of Rs.39,434.87 ps along with interest @ 17% per annum, which comprises the principal amount of Rs.4,442.61 ps. The writ petition is filed contending that the demand raised is barred by limitation and thus, issuance of the impugned notice is arbitrary and illegal.

A detailed counter affidavit has been filed by the respondent-Deputy Registrar of Cooperative Societies, Bhongir. In terms of the counter affidavit and even as per the impugned order, what transpires is to this effect that the petitioner was Chairman/Person-In-Charge of the Multi Purpose Cooperative Society Limited, Maliyala. He was appointed in the year 1975 and continued upto 23.03.1979. An enquiry under Section 51 of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act') was conducted in 1984 and in the said enquiry, the petitioner was found to have misappropriated a sum of Rs.14,858.61 ps. The said amount was recommended to be recovered with interest @ 17 $\frac{3}{4}$ %. Based on the enquiry report, surcharge proceedings were issued under Section 60 of the Act and the petitioner was found to be liable to pay a sum of Rs.30,949.20 with interest @ 17 $\frac{3}{4}$ % on the principal misappropriated amount. In terms of the procedure as available at that point of time, the petitioner filed an appeal *vide* Special Appeal No.2 of 1998 before the Principal District Munsiff, Bhongir. By judgment dated 10.09.1991, the Principal District

Munsiff allowed the appeal in part to the extent of Item Nos.4 and 9 and confirming the charges under Item Nos.1,2,3,5 to 8, 10 and 11. After disposal of the Special Appeal, the then Deputy Registrar of Cooperative Societies, Bhongir, issued proceeding dated 14.08.1996 revising the surcharge order by excluding item Nos.4 and 9 and made the demand of Rs.12,942/- in respect of item Nos.1, 2, 3, 5 to 8, 10 and 11. The petitioner challenged the said order by filing CTA No.402 of 1996 before the Andhra Pradesh Cooperative Tribunal, Hyderabad. The Tribunal *vide* judgment dated 24.07.1999 disposed of the appeal confirming the orders impugned therein.

In terms of the judgment in Special Appeal No.2 of 1988, E.P.No.6 of 1997 came to be initiated and due to administrative changes with respect to the offices of the respondent, the proceedings were kept in cold storage for some time. However, it is on record that during the pendency of E.P proceedings, the petitioner paid an amount of Rs.4,500/- on 31.03.2003.

During the process of execution of E.P., the Sale Officer had issued a notice dated 31.03.2005 and the same was served on the petitioner on 12.04.2005. As the petitioner has not remitted the misappropriated amount within the time limit, the Sale Officer has attached the immovable properties on 01.07.2005. Questioning the same, the petitioner filed W.P.No.13435 of 2005. This Court disposed of the said writ petition on 27.06.2005 holding that the respondent authorities are entitled to recover a sum of Rs.26,730/- in satisfaction of the surcharge order dated 11.04.1986. In other words, it is only the petitioner who had stalled the recovery of amount by initiating proceedings one after the other and he is successful all these years without paying the amount. To his misfortune, though the amount alleged to have been misappropriated is only Rs.14,858.61 ps, interest came to be fastened on him @ 17 $\frac{3}{4}$ %, which is huge and burdensome. Inasmuch as the same came to be confirmed by virtue of

the orders, which were challenged before the judicial forum, this Court cannot interfere with the same in exercise of the supervisory jurisdiction under Article 226 of the Constitution of India. However, it is always open for the M.P.C.S, Maliyala, now merged in P.A.C.S Bommala Ramaram, to consider the scaling down of the interest, particularly, considering the fact that the principal amount which was misappropriated was only Rs.14,858.61 ps. and that the petitioner appears to have made substantial payments in course of time.

In the circumstances, I see no infirmity in the impugned demand notice dated 06.12.2005 and the same cannot be interfered with. However, liberty is given to the petitioner to approach the society and the respondent authorities to seek concession/scaling down of the interest.

Accordingly, the writ petition is disposed of. The Miscellaneous Petitions filed in this Writ Petition shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Date: 17.12.2015

va