

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 2848 of 2006

ORDER:

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The present writ petition came to be filed seeking issuance of writ of mandamus declaring the proceedings issued by the third respondent in Rc.No.1529/2001-D, dated 06.08.2005, directing respondent Nos.1 and 2 to draw the Provident Fund Amount vide Account No.5554 lying with the first respondent Branch and remit the same to the Loan Account of Primary Agricultural Co-operative Society Limited, Palamanda, and the consequential orders passed by the second respondent in Rc.No.7/Secretaries of PACS/05-06, dated 20.08.2005, directing the first respondent to adjust the amount in petitioner PF Account No.5554 to the Account of Primary agricultural Co-operative Society Limited, Palamanda, as illegal, arbitrary and violative of principles of natural justice and against the orders passed by the fifth respondent in Rc.No.49815/97-K2, dated 18.10.2002 and its consequential orders vide Lr.Rc.No.25291/2005 116 ©/2, dated 30.10.2005.

The averments in the affidavit filed in support of the writ petition would show that the petitioner was appointed as Secretary and posted to the Primary Agricultural Co-operative Society Limited, Pichatoor in the year 1977. It is pleaded that since the date of appointment he has been working to the satisfaction of the society and his service was without a blemish. It is stated that the then President of the Primary Agricultural Co-operative Society Limited, Palamanda, misappropriated certain amounts of the society and when he took an objection for the same, he was placed him under suspension in the month of February, 2003 by making false and frivolous allegations. Since no subsistence allowance was paid from the date of suspension, the petitioner made a representation on 21.02.2005 for refund of his Provident Fund Amount in SC Account No.5554 lying with the first respondent. Without refunding the amount, the first respondent adjusted the amount to the loan account of Primary Agricultural Co-operative Society Limited, Palamanda inspite of the orders of respondent Nos.2 and 3 in Rc.No.1529/2001-D, dated 06.08.2005 and R.C.No.7/Secretaries of PACS/05-06, dated 20.08.2005. The said order is subject matter of challenge in the writ petition.

It is to be noted that while admitting the writ petition no interim order was passed in favour of the petitioner.

Counters came to be filed by the respondents bringing it to the notice of the Court about the proceedings which are pending against the petitioner for his act of misappropriation of funds in other societies, namely P.A.C.S., Avulanatham, wherein he misappropriated an amount of Rs.1.92 lakhs and E.P.No.131/1999-2000 was filed against the petitioner for recovery of RS.1.92 lakhs. The counter also discloses pendency of E.P.No.42/2002-2003 against the petitioner for recovery of Rs.27,574/- alleged to be have been misappropriated in Ekaralapalle P.A.C.S. while he worked as Secretary in the said Society. Though the petitioner was removed from services, he collected the loan amounts from the borrowers and utilized the same for his own purpose. The averments in the counter further discloses that a show cause notice vide Rc.No.1529/2001-D, dated 29.12.2005 was issued to the petitioner to submit his explanation, but the petitioner did not turn up.

At the time when the matter is taken up for hearing, it is brought to the notice of the Court that the petitioner died pending writ petition. Learned counsel for the petitioner submits that he is not aware about the proceedings which took place after the death of the petitioner.

As seen from the record, no steps are being taken by the counsel for the petitioner to bring the legal representatives of the petitioner on record. He is also not aware as to whether an amount of Rs.7.36,000/- was recovered from the account of the petitioner. He states that in view of the death of the petitioner, it may not be possible to get instructions.

In view of the above, no further orders can be passed in this writ petition and the same is accordingly rejected, leaving it open to the legal representatives of the petitioner to avail the remedy available under law, if they are entitled to any benefits under law. No order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

05.11.2015

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