

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION Nos. 23351 OF 2002 AND 2389 OF 2005

18-11-2015

Between:

Ponduri Ramaiah

... Petitioner

And

A.P Co-Operative Tribunal, Vijayawada and others

... Respondents

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WRIT PETITION Nos. 23351 OF 2002 AND 2389 OF 2005

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COMMON ORDER: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Writ Petition No. 23351 of 2002 is against the order dated 11-10-2002 passed by Andhra Pradesh Cooperative Tribunal, Vijayawada, which confirmed the order dated 30-06-1993 passed by the Deputy Registrar of Cooperative Societies, Narasaraopet. By the order dated 30-06-1993, under Section 60 of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act'), surcharge order to the extent of Rs.49,815.27 was passed with interest. The order was confirmed in the appeal bearing O.A No.20 of 2001.

In Writ Petition No. 2389 of 2005, the very same petitioner prays for writ of Mandamus declaring the notice dated 28-01-2005 issued by the Sub-Divisional Cooperative Officer, Narasaraopet, Guntur District as illegal, arbitrary and without jurisdiction. By this notice, petitioner's land measuring Acs.2.30 cents has been attached/seized to recover the amount of Rs.49,815.27 with interest.

This Court while admitting the writ petition had granted interim stay of the notice dated 28-01-2005. The order of stay operates till this date.

In this backdrop, we made certain suggestions to learned counsel for the parties and they have agreed for the order that we propose to pass. It is pertinent to note that despite service of notice, the respondent – Society has not entered appearance for the reasons best known to them. It would not be out of place to observe that learned counsel for the petitioner made concession in view of the fact that the respondent – Society chose not to appear in the writ petition.

In the circumstances, we are satisfied that the following order shall meet the ends of justice:

“The amount of Rs.50,000/- deposited by the petitioner, as per our order dated 13-10-2015, in this Court is directed to be remitted to the respondent – Society. The Registrar (Judicial) shall take immediate steps to transfer the amount deposited as per our order dated 13-10-2015 to the respondent – Society towards full and final settlement of the amount as per the impugned order in the surcharge proceedings.

The notice dated 20-01-2005 impugned in Writ Petition No. 2389 of 2005 is set aside. The property of the petitioner seized under this notice is directed to be released in favour of the petitioner. It is open to the petitioner to get entries in the record of rights in respect of the said property cancelled and seek restoration of the original entry in respect thereof.”

With these observations, the writ petitions are disposed of.

It is needless to mention that in view of the concession made by learned counsel for the petitioner, as aforementioned, we have disposed of these petitions in terms of this order. We make it clear that this order shall not form a precedent for compliance of Section 60 of the Act.

Miscellaneous petitions, if any, also stand disposed of. No order as to costs.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

18-11-2015

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