

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.24812 of 2016

ORDER:

1 This Writ Petition is filed under Article 226 of the Constitution of India seeking a writ of mandamus challenging the order dated 11.7.2016 in M.P. No.77 of 2016 in O.A. No.44 of 2016 on the file of the Andhra Pradesh Co-operative Tribunal at Vijayawada.

2 Heard Sri R.N. Hemendranath Reddy, learned counsel for the petitioner, learned Government Pleader for Co-operation (Andhra Pradesh) representing respondent Nos.1 to 3 and Smt.Bobba Vijaya Lakshmi, learned counsel for fourth respondent.

3 The fourth respondent herein filed O.A. No.44 of 2016 on the file of A.P. Co-operative Tribunal, Vijayawada, challenging surcharge order dated 16.4.2016 issued by the first respondent. He also filed M.P.No.77 of 2016 in the O.A. with a prayer to raise the attachment order in respect of the joint family properties of the petitioner while passing the surcharge order. The Tribunal, after affording a reasonable opportunity to both parties, allowed the petition with the following directions:

14. In the result, this petition is allowed by directing the petitioner to furnish:

- a) Security in the Form of FDR in the name of Secretary, A.P. Cooperative Tribunal, Vijayawada, by depositing the surcharge liability amount of Rs.16,08,438/- with interest at the rate of 8% per annum from the date of occurrence of fraud till the date of deposit; or
- b) Security by depositing Rs.16,08,438/- by way of cash in the name of Secretary, A.P. Cooperative Tribunal, Vijayawada, and furnish 3rd party security towards interest; or
- c) 3rd party security towards surcharge liability amount with interest;

On such furnishing security, the earlier attachment if any shall stand raised or replaced. The petitioner or his successors in interest shall not claim the said amount till the termination of surcharge proceedings or liability against the petitioner. No costs.

4 Feeling aggrieved by the orders of the Tribunal, the petitioner filed the present writ petition.

5 At the time of arguments, learned counsel for the fourth respondent submitted that the fourth respondent is ready and willing to deposit an amount of Rs.16,08,438/- along with interest at 18% per annum to the credit of O.A. No.44 of 2016. While responding to the same, learned counsel for the petitioner submitted that if the said amount along with interest is paid to the credit of O.A. No.44 of 2016, the petitioner has no objection for raising the attachment. In view of the submissions made by the learned counsel for both the parties, this court is not inclined to go into the merits of the main case.

6 Accordingly, the writ petition is disposed of, granting liberty to the fourth respondent to deposit an amount of Rs.16,08,438/- along with interest at 18% per annum to the credit of O.A. No.44 of 2016 on the file of the A.P. Co-operative Tribunal, Vijayawada. On such deposit, the Tribunal shall raise the attachment. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

T.SUNIL CHOWDARY, J

September 12, 2016.

NOTE:

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14.9.2016.

(By order)

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