

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

[Special Original Jurisdiction]

WEDNESDAY THE TWENTYTHIRD DAY OF MARCH
TWO THOUSAND AND SIXTEEN

PRESENT
HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 6378 OF 2009

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Between:

Tirumalareddy Rama Rao ... Petitioner

V/s.

The Deputy Registrar/Divisional
Co-operative Officer [Arbitrator]
Vizianagaram Division,
Vizianagaram & Anr. ... Respondents

Counsel for the Petitioner : Sri P. R. Prasad

Counsel for the Respondents: GP for Co-operation
Sri K. Rajanna

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

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WRIT PETITION NO. 6378 OF 2009
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ORDER:
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The respondent in ARC.No. 1/98-99 is the writ petitioner.

The petitioner challenges the Interlocutory Order of first respondent dated 19/12/2008 in the instant writ petition.

2. The objection of petitioner is that the filing of ARC.No. 1/98-99 and continuation thereof is contrary to Rule 49 of A.P. Co-operative Societies Rules and also Section 3 of the Limitation Act. The basis for such contention is that the claims for which the instant ARC is filed are ex-facie barred by limitation.

3. The case of respondent is that there is so much litigation and the date has to be reckoned when steps were taken by second respondent to recover amounts from the writ petitioner. The writ petitioner in the very same matter once has moved the Government and obtained orders, thereafter again fresh enquiry

was started and the limitation is considered and fixed with reference to all the important dates and events in the matter.

4. By referring to the order impugned in the writ petition, Sri Rajanna, learned counsel appearing for second respondent submits that the first respondent has left open the issue of limitation as an for decision, unless and until the material is placed before the first respondent, on the self-serving averments of the writ petitioner the ARC cannot be dismissed. The operative portion of the order under challenge reads as follows:

“The Respondent society herein [Plaintiff society in the ARC] again filed another ARC before the Deputy Registrar of Co-operative Societies, Vizianagaram on 18/4/20-09 in pursuance of the resolution No.12 of the meeting of Managing Committee held on 28/2/1998 against the petitioner herein. IN both the ARCs filed by the plaintiff society therein, the disputes of acts or omissions that had occurred from 1991/92 which were identical, have been mentioned. The inclusion of certain disputed amounts or omissions in the ARC which are barred by law of limitation Act does not vitiate the entire ARC on the grounds of validation period when the remaining disputed amounts or omissions in the ARC are within the validation period of six years. It is open for this authority to reckon the validation period vis-à-vis to disputed amounts or omissions when the final orders of ARC are issued.”

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5. I have perused the material available on record, particularly the findings recorded by the first respondent on the objection taken by the writ petitioner. I am unable to agree with the

submissions of writ petitioner that ex-facie ARC No.1/98-99 is to be rejected as barred by limitation. But I am of the view that limitation is matter of trial and decision by the Arbitral Tribunal. In the order impugned in the writ petition, the Tribunal has already indicated to the effect that the limitation issue will be considered. The writ petition fails and accordingly dismissed. The first respondent is directed to dispose of ARC.No.1/98-99 within two months from the date of receipt of a copy of this order. No costs.

6. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE S.V. BHATT

23/03/2016
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HONOURABLE SRI JUSTICE S.V. BHATT

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