

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 6760 OF 2007

ORDER:

The surcharge order dated 19.12.2006, whereby and where under the Deputy Registrar of Cooperative Societies, Sangareddy has directed the petitioner to pay a sum of Rs.35,600/- together with interest at 18% per annum from the date of misappropriation of funds till the date of realization, is challenged in this Writ Petition.

The brief facts of the case are as follows:

The petitioner was served with a surcharge notice dated 14.11.1997 alleging that he, while acting as the President of Ippepalli Primary Agricultural Cooperative Society, Zaheerabad Mandal, Medak District, misappropriated the funds of the Society to the tune of Rs.66,108/-. Questioning the said notice, the petitioner filed Writ Petition No. 15306 of 1998. The Writ Petition was dismissed by this Court on 24.09.2002, as an alternative remedy of Appeal under Section 76 of the Andhra Pradesh Cooperative Societies Act, 1964 is available and granted time to the petitioner to approach the Cooperative Tribunal on condition of his depositing Rs.20,000/- within a period of six weeks from the date of receipt of a copy of that order. Since the petitioner could not file the Appeal in time, he filed W.P.M.P.No. 31919 of 2003 seeking extension of time. The same was dismissed by the learned Single Judge. Against the said order, the petitioner preferred Writ Appeal No. 2215 of 2003. The Writ Appeal was allowed by the Division Bench granting time for depositing Rs.20,000/- before the Society. Hence, the petitioner filed the Appeal vide C.T.A.No. 3 of 2004

before the Cooperative Appellate Tribunal at Hyderabad. The Tribunal allowed the Appeal by setting aside the surcharge order and remanded the matter to surcharge authority to pass a fresh reasoned order within three months. Thereafter, the 2nd respondent again issued show cause notices on 22.09.2006 and 28.11.2006, for which, the petitioner submitted his explanation on 08.12.2006, but, without considering the same, the impugned surcharge order dated 19.12.2006 has been passed is the complaint of the petitioner.

A counter-affidavit has been filed by the Divisional Cooperative Officer, Sangareddy, Medak District, detailing as to how the petitioner is liable to pay the surcharge amount.

Learned counsel for the petitioner submits that this Writ Petition is an example for violation of the principles of natural justice. According to him, the Deputy Registrar of Cooperative Societies, Sangareddy has passed the order impugned without considering the explanation submitted by the petitioner.

Learned Government Pleader for Cooperation (Telangana) points out that the petitioner himself made a representation on 18.01.2007 to the Divisional Cooperative Officer, Sangareddy to drop the further proceedings against him by adjusting the amount of Rs.16,527/-, which was deposited by him pursuant to the orders passed by this Court and now, he cannot turn round and say that he is not liable to pay the amount demanded.

In normal circumstances, this Court would have straight away set aside the surcharge order dated 19.12.2006 and remanded the matter for consideration afresh, but for the

submission made by the learned counsel for the petitioner that since the petitioner has already paid a sum of Rs.36,527/- as against the amount of Rs.35,600/-, this Court may consider the feasibility of giving a quietus to the litigation by waiving the interest to be paid thereon.

The surcharge proceedings were initiated against the petitioner in 1997 for the alleged misappropriation that took place during the period 1987-90. A perusal of the material on record clearly shows that the departmental proceedings were not conducted in the manner in which they are required to be conducted resulting in interference of this Court as well as the Cooperative Tribunal. For that very reason, without going into the merits of the matter, the order impugned dated 19.12.2006 is liable to be set aside and it is accordingly set aside. However, since the petitioner does not want pursue the matter any further, it is made clear that he shall not be entitled to claim the amount, which has already been deposited by him.

With this, the Writ Petition stands allowed. No costs.

Consequently, the miscellaneous applications, if any shall stand disposed of.

CHALLA KODANDA RAM, J

01st September 2016

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