

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 19632 OF 2016

ORDER:

The Award dated 29.12.2015 passed by the Deputy Registrar of Cooperative Societies / Divisional Cooperative Officer, Golconda Division, Hyderabad in ARC No. 124 of 2014, by which the petitioner herein along with another individual were held liable to pay a sum of Rs.93,52,931.51 Ps. to the 4th respondent bank along with simple interest @ 10% from 01.12.2014 till realization, without costs.

The case of the petitioner is that he joined the 4th respondent - bank in 1994 at its Ranigunj Branch as a Clerk and subsequently, converted as a Cashier. During that period, he was alleged to have committed certain irregularities and in that process, an internal disciplinary inquiry under Section 51 of Andhra Pradesh Cooperative Societies Act, 1964 was ordered against him. Thereafter, the 4th respondent referred the dispute under Section 61(1)(c) of Act 7 of 1964 read with Rule 49 of the A.P. Cooperative Rules, 1964, vide A.R.C.No.124 of 2014 to the 3rd respondent – Arbitrator - Deputy Registrar of Cooperative Societies. During the course of the said proceedings, after making a reference to Rule 49 of the Rules, recording that there was no representation on behalf of the petitioner on 28.12.2015 at 11.30 A.M. to put forward his arguments, the 3rd respondent-Deputy Registrar reserved the matter and accordingly, passed the orders *ex parte*, holding them liable to pay a sum of Rs. 93,52,931.51 Ps. with interest at 10% per annum with effect from 1.12.2014 till realization.

Learned counsel for the petitioner submits that the 3rd respondent allowed the A.R.C. simply going by the technicalities. He further submits that the 3rd respondent passed the order impugned without affording an opportunity of hearing to the petitioner, which is in gross violation of the principles of natural justice. According to him,

the petitioner got filed a counter-affidavit before the 3rd respondent on 29.12.2015, but without considering the same, the latter passed the orders *ex parte*.

Today, learned Government Pleader for Cooperation (Telangana) has produced the original record before this Court. As can be seen from the very impugned order, the factum of the petitioner filing a counter on 29.12.2015 is evident. At the time of passing the order, if the counter is available on record, though the petitioner was set *ex parte* on 28.12.2015, nothing prevented the 3rd respondent from referring to the counter-affidavit and considering the same before passing the orders. Here, it is to be noted that a huge liability to the tune of Rs.93.52 lacs with interest at 10% was sought to be fastened on the petitioner without recording any reasons, solely on the ground that on 28.12.2015, the petitioner was not present and thereby, he was set *ex parte*.

In those circumstances, there being violation of the principles of natural justice, affecting the civil rights of the petitioner, the impugned order is liable to be set aside and the matter is liable to be remanded to the 3rd respondent to conduct the inquiry afresh.

Accordingly, the Writ Petition is allowed. The matter is remanded to the 3rd respondent-Deputy Registrar of Cooperative Societies to conduct the inquiry afresh and pass appropriate orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs.

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

CHALLA KODANDA RAM, J

27th June 2016

ksld

