

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT APPEAL NOS.988, 990 AND 1033 OF 2016

COMMON JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

These three appeals are preferred against the common order passed by the learned Single Judge in WP.Nos.13073, 13080 and 13180 of 2010 dated 13.03.2016. The appellants herein invoked the jurisdiction of this Court under Article 226 of the Constitution of India questioning the order passed by the Andhra Pradesh State Co-operative Tribunal, Hyderabad, in C.T.A.Nos.33, 34 and 35 of 2006 filed against the award passed in ARC.Nos.4, 5 and 6 of 1997 on the file of the Deputy Registrar Enforcement Officer/Arbitrator Enforcement Officer, A.P. Marketing Federation Ltd., Hyderabad.

In the order under appeal, the learned Single Judge observed that he had perused the award dated 31.01.2006, and the order of the Co-operative Tribunal dated 01.09.2009; it was contended on behalf of the petitioners, relying upon the statement of accounts, that the second respondent had failed to properly reconcile the details given by the petitioners and the net amount, determined by the second respondent, was unsustainable in fact and law; the High Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot re-appreciate or re-examine the evidence placed by the parties; it was not the case of the petitioners that there was perversity in appreciating the evidence, and that the documents relied upon were improperly construed; and no illegality, in the findings recorded in the impugned orders,

were shown. The learned Single Judge, however, reduced the rate of interest payable from 22% to 12% per annum.

Smt. K.Annapurna Reddy, learned counsel for the appellants, would draw our attention to the statement of accounts dated 17.10.2003, to submit that this statement, though filed, was not considered by the Tribunal. As neither the award passed by the Deputy Registrar nor the order passed by the Tribunal make any reference to the said statement, we asked Smt. K.Annapurna Reddy, learned counsel for the appellants, to show us, from any of the documents placed on record, that this statement was brought to the notice of either the Arbitrator or the Tribunal. Learned counsel would draw our attention to paragraph 6 of the writ affidavit wherein the petitioner had disputed the rate of interest, and had claimed to have furnished the details of payment made to the first respondent. In paragraph 5 of the Writ affidavit, reference is made to the fact that a sum of Rs.39,000/- is due from the first respondent to the appellant. It is this figure which was brought to the notice of the Arbitrator who in his proceedings dated 15.10.1998, after recording the appellant's claim that a sum of Rs.39,000/- was due, noted the submission made on behalf of the A.P. Marketing Federation that amounts were due from several other units of the appellant. The Arbitrator had, thereafter, directed the appellant to furnish full particulars of the statement of accounts, in respect of all the ten units, supported by valid vouchers and documents, by the next date of hearing.

The award of the Arbitrator is dated 31.01.2006. If, as is now contended before us, the said statement dated 17.10.2003 was brought to the notice of the Arbitrator, the order of the

Arbitrator dated 31.01.2006 should have made a reference thereto. This statement also does not appear to have brought to the notice of the Tribunal as details of the said statement are not referred to in the order impugned before the learned Single Judge. Even, in the grounds of appeal before the Tribunal, there is no reference to this Statement of Accounts dated 17.10.2003. Except for a vague averment in the Writ affidavit, that a detailed statement of accounts was filed, not even copy thereof appears to have been enclosed along with the Writ Petition.

In Certiorari proceedings, under Article 226 of the Constitution of India, the High Court would not re-appreciate the findings of fact recorded by the Tribunal, more so on the basis of material placed before it for the first time. The order under appeal makes no reference to any such statement of accounts having been placed before the Learned Single Judge. It does appear that the statement of accounts dated 17.10.2003 has been filed, for the first time, in these appeals before us. We see no reason therefore to take this statement of accounts into consideration, and adjudicate the disputes based thereupon, in intra-Court appeals instituted under Clause 15 of the Letters Patent.

The learned Single Judge has, in fact, reduced the rate of interest, on the amounts due, from the contractual rate of 22% to 12% per annum. Smt. K.Annapurna Reddy, learned counsel for the appellants, would request that the rate of interest be further reduced to 6% per annum. We are satisfied that interest at 12% per annum, as awarded by the learned Single Judge, is not so unreasonable as to necessitate interference in an intra-Court appeal under Clause 15 of the Letters Patent.

All the Writ Appeals fail and are, accordingly, dismissed.
There shall be no order as to costs. Miscellaneous petitions, if any,
pending shall stand dismissed.

(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

13th October 2016
RRB

