

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.1385 of 2006

ORDER:

This writ petition was filed by the Ex-President of the Ananthapur Co-operative Marketing Society Limited, Ananthapur, who worked as the President of the said society during 01.01.1982 to 06.05.1985. During his tenure, he appointed respondents 4, 5 and 6 as Godown Keepers. Certain irregularities were noticed in the maintenance of stock during the relevant period. An enquiry under Section 51 of the A.P. Co-operative Societies Act 1964 was conducted and it was noticed that there was misappropriation of stock by the Godown Keepers. When the matter was referred to the Deputy Registrar of Co-operative Societies, Anantapur, surcharge proceedings were initiated against the petitioner and three others. The petitioner was alleged to have been jointly liable along with the Godown Keepers for misappropriation of stock of the value of Rs.2,13,379.86. The petitioner applied for a copy of the enquiry report and sought time for submission of the explanation pursuant to the show cause notice issued by the society on 26.08.1986. A copy of the enquiry report was furnished to him on 15.10.1986, but he did not file any objection to the same. The main allegation relates to the shortage of rice and the 2nd respondent in his order stated that the petitioner himself recorded in his own handwriting on 27.02.1985 of having verified the rice stock and found shortage of 282 quintals of rice and attested his signature. However, the said 282 quintals was

tampered to look as 2.82 quintals. The shortage was admitted by the Godown Keeper in his statement. A Board resolution dated 31.03.1985 was passed confirming the deficit of the quantity. One Godown Keeper paid an amount of Rs.10,000/- to the President, petitioner, towards shortage and 15 days time was granted to him for payment of the balance amount. The petitioner did not verify the stock of Palmolin oil and after he demitted his office, the deficit was noticed as 35.51 quintals costing Rs.77,547.80. In respect of the 3rd Godown Keeper, the stock worth Rs.25,653.02 was noticed as deficit. The petitioner did not file any complaint with the police after noticing the deficit stock and the 2nd respondent opined that the petitioner tampered his own endorsement dated 27.02.1985 to look 282 quintals as 2.82 quintals. The three Godown Keepers were appointed by the petitioner himself and there was no Secretary at the relevant point of time. Accordingly, the 2nd respondent passed an order dated 23.04.1987 making the petitioner liable along with two Godown Keepers for the above amount. The petitioner preferred an appeal against the said order to the A.P. Cooperative Tribunal, Hyderabad in C.T.A.No.110 of 1998. The Tribunal took into consideration that the two Godown Keepers were appointed by the petitioner and for misappropriation of the amount a criminal case was also lodged against them. The third Godown Keeper took charge of the stock on 31.03.1985 on the direction of the petitioner and he was in charge up to 17.05.1985. During that period, it was noticed that there was shortage of 135.36 quintals of rice worth

Rs.53,264/-. The other two Godown Keepers against whom the criminal proceedings were initiated did not file any appeal and the petitioner wanted to escape from the liability stating that they alone were responsible. The Tribunal, though held that the evidence does not show that the petitioner misappropriated the amount, but being a custodian, administrator of the society, he is responsible along with the Godown Keepers for the misappropriation. The Tribunal also came to the conclusion that if proper action was taken against one Godown Keeper immediately after noticing the deficit, the subsequent events would not have occurred and the petitioner failed to take proper action. The Tribunal accordingly held that the joint liability fixed on the petitioner along with the Godown Keepers was proper and accordingly dismissed the appeal preferred by the petitioner by order dated 10.06.2005. Challenging the same, the petitioner filed the present writ petition.

2. This Court by order dated 27.01.2006 granted interim stay of all further proceedings subject to the petitioner depositing a sum of Rs.60,000/- within a period of three weeks. Today, it is submitted by the learned Government Pleader for Cooperation that the said amount was not deposited. Even otherwise also on the facts, the Godown Keepers admitted the misappropriation of the deficit stock and during the relevant point of time, the petitioner was the President of the society. Even after knowing the deficit and misappropriation, he has not taken any action against the Godown

Keepers. In those circumstances only, the surcharge order was passed and the same was confirmed by the Tribunal. This Court sees no reason to interfere with the same.

3. The Writ Petition is accordingly dismissed. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

24-11-2016
Gsn

