

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.Nos.23031, 23022, 23036 of 2009

COMMON ORDER

These three writ petitions are disposed of by this common order as they arise same point of law.

The writ petitions were filed by the legal representatives of the Ex-President of the 2nd respondent-Society, against whom, there was an allegation of committing irregularities while discharging duties. When proceedings under Section 60 of the Andhra Pradesh Co-operative Societies Act, 1964 (for short 'the Act'), were taken, he died on 5.5.2006 during pendency of the enquiry. However, the enquiry was continued against the legal representatives, who are the petitioners herein and separate orders were passed on 6.9.2007 by the first respondent holding that the Ex-President was liable to pay the amounts of Rs.4,95,000/- ,Rs.36,000/- & Rs.1,38,000/-. The surcharge orders passed on 6.9.2009 were challenged before the Andhra Pradesh Co-operative Tribunal, Visakhapatnam, in O.A.Nos.95, 96 & 97 of 2008. The Tribunal *vide* separate orders dated 1.9.2009 confirmed the surcharge orders passed by the 1st respondent. WP Nos.23031, 23022, & 23036 of 2009 were filed against the three OAs.

Learned counsel appearing for the petitioners submits that the surcharge proceedings cannot be continued after the death of the original delinquent against his legal representatives and this point was authoritatively decided in *G.Anasuyamma v. Kandulapuram Primary Agricultural Society*¹.

Learned Government Pleader submits that the Division Bench in another case has already accepted the said position but upheld the order of the learned Single Judge where the learned Judge directed the initiation of proceedings against the legal representatives under Section 61 of the Act when the delinquent was not available for facing surcharge proceedings. He further submits that though in the instant case, the proceedings under Section 60 of the Act cannot be continued, the second respondent is at liberty to take up the proceedings under Section 61 of the Act.

In view of the settled legal position with regard to the irregularity to continue the surcharge proceedings under Section 60 of the Act against the legal representatives of the deceased delinquent, the writ petitions are allowed. However, the 2nd respondent is at liberty to initiate appropriate proceedings in accordance with law, if it is so advised. No costs.

¹ 2004 (1) ALT 787

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

27th October, 2016
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