

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos.17584 & 17585 OF 2006

COMMON ORDER:

Both the writ petitions are filed challenging the common proceedings dated 10.08.2006 issued by the 2nd respondent-Deputy Registrar of Cooperative Society (for short, "the Society") ordering for conditional attachment of the properties in question under Section 73 of the A.P. Cooperative Societies Act, 1964 (for short, "the Act").

Both the writ petitions are heard jointly and they are being disposed of by a common order since the impugned order passed in both the writ petitions are one and the same.

In W.P.No.17584 of 2006, the petitioner is a former clerk of the Society and in W.P.No.17585 of 2006, the 1st petitioner is a Secretary of the Society. Pursuant to the special report dated 29.06.2006 of the Branch Manager, D.C.C. Bank Limited, the General Manager, D.C.C.Bank, Khammam requested the Divisional Cooperative Officer, Khammam to order an enquiry under Section 51 of the Act to probe with misappropriation of the Societies funds and also to execute the conditional attachment on the immovable properties of the concerned, so that they may not alienate the properties.

In W.P.No.17584 of 2006, it is the contention of the petitioner that except the property in Sy.No.150/AA over an extent of Ac.10.02 cents situated in Raigudem, N.K.Pally Mandal, Khammam District, petitioner has nothing to do with the other properties mentioned therein. It is the further contention of the petitioners that the procedure contemplated under Section 73 of the Act was not followed particularly no notice was issued before passing the conditional attachment order calling upon the petitioners to furnish adequate security and on that grounds the passing of the conditional attachment order is bad and liable to be set side. It is also further contended that the attachment

made by the 2nd respondent is without any jurisdiction.

A counter-affidavit has been filed by the Deputy Registrar of Cooperative Societies and wherein it has been categorically stated that the Secretary was directed to explain as to why the conditional attachment order should not be passed as there is no proper response on the credible information and on receiving the confirmation that there is possibility of disposal of the property in question by the petitioners, the attachment order came to be passed and the same is only a conditional attachment. Further, there is no embargo on the petitioners to cultivate the land and enjoy the agricultural produce. It is further stated that on account of G.O.Ms.No.34 dated 18.01.1989, the Deputy Registrar of Cooperative Societies in-charge of division is empowered with the power of Registrar under Section 73 of the Act and on account of the delegation of the powers the Special Duty/Deputy Registrar of Cooperative Societies of D.C.C. Bank have also the additional powers. There is no reply affidavit filed by the petitioners to the counter-affidavit filed by the respondents denying the averments made in the counter-affidavit.

This Court while admitting the writ petition granted the interim order directing the petitioners not to alienate the properties mentioned till the disposal of the main writ petition. Both the learned counsel for the petitioners in both the writ petitions and as well as the learned Government Pleaders are unable to submit the status of the enquiry initiated under Section 51 of the Act even after the matter was adjourned on earlier occasion.

Inasmuch as the attachment before pending enquiry only has been made and there being no instructions as to enjoyment of the petitioners' properties under attachment, the writ petition itself is being disposed of in terms of the interim order dated 25.08.2006 passed by this Court in W.P.M.P.No.22042 of 2006. However, the respondents are directed to complete the enquiry under Section 51 of the Act within a period of three months from the date of receipt of copy of this order, if

already not completed.

With the above observations, the writ petitions disposed of. No order as to costs.

Miscellaneous Petitions, if any, pending in both the writ petitions shall also stand closed.

CHALLA KODANDA RAM, J.

Date:29.08.2016.

Gk.

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos.17584 & 17585 OF 2006

—

Date:29.08.2016.

Gk.