

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.25150 OF 2016

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ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the action of the third respondent in issuing the impugned orders vide proceedings in Rc.No.2480/2009/B-1 dated 09.06.2016 as illegal, arbitrary, *non est*, against the settled principles of law and consequently set aside the same.

Heard the learned counsel for the petitioner and the learned Government Pleader for Co-operation.

The attachment order dated 09.06.2016 passed by the Deputy Registrar of Co-operative Societies/the third respondent, is challenged on the sole ground that under Section 73 of the Co-operative Societies Act, no such order could be made when the matter is pending adjudication. Elaborating on the same, learned counsel for petitioner Sri R.N.Hemendranath Reddy submits that in the case on hand, the surcharge order under Section 60 of the Co-operative Societies Act was made on 18.03.2016 against the petitioner and others for a sum of Rs.79,71,908/- along with interest and an attachment was also made by issuance of Form No.6 and in that view of the matter, the present attachment order, which is made under Section 73, in law, is unsustainable.

Learned Government Pleader submits that as on date, no attachment order has been made, however, the legal proposition, which was made by the learned counsel for petitioner, is not disputed.

Considering the respective submissions, technically, the argument of the learned counsel for petitioner deserves to be accepted. In that view of the matter, the order dated 09.06.2016 is set

aside. The setting aside of the order dated 09.06.2016 shall not be construed as passing further orders by the Deputy Registrar in terms of Rule 52, as already notice for attachment/sale of the properties mentioned in the schedule to Form No.6 has already been issued.

Subject to the above, the Writ Petition is closed. No costs.

Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 28.07.2016

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