

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.5400 of 2016

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Between:

Ch. Suresh

PETITIONER

AND

1. The State of Telangana rep. by the Principal Secretary,
Department of Agriculture and Cooperation, Telangana
Secretariat, Hyderabad, and others.

RESPONDENT

ORDER:

Docket order dated 16.11.2015 passed in I.A.No.171 of 2015 in CTA SR No.580 of 2015 on the file of the Cooperative Tribunal, Hyderabad is under challenge in these writ petitions.

As against the surcharge Award made in ARC No.7/2006-G under Section 62 (4) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') dated 30.08.2012 fixing the liability of Rs.8,35,456/- along with further interest @ 23% p.a. together with quarterly rests till the total realization of due amount, the petitioner filed appeal before the Cooperative Tribunal, Hyderabad. In the process, there was a delay of 978 days in filing the appeal. Hence the petitioner filed I.A.No.171 of 2015 seeking to stay of all further proceedings of the Award in ARC No.7/06-G, dated 30.08.2012. The said application came to be dismissed on 16.11.2015, which reads as under:

“Hon'ble High Court has already disposed of the WP No.29999 of 2015 filed by the petitioner, modifying the order passed in CTA 34 of 2015 dated 03.09.2015 to recover Rs.12000/- per month instead of Rs.20,000/- p.m. This Tribunal shall not interfere, hence dismissed.”

At the out set, it may be noticed that the reference made to on W.P.No.29999 of 2015 in the order in I.A.No.170 of 2015 itself is not correct. What the learned Presiding Officer was referring to was the order in W.P.M.P.No.38834 of 2015 in W.P.No.29999 of 2015. The prayer in the W.P.M.P. is with regard to suspension of order dated 03.09.2015 in I.A.No.153 of 2015 in CTA.No.34 of 2015 on the file of the A.P. Cooperative Tribunal at Hyderabad and the attachment order dated 15.08.2015 passed in E.P.No.02/TNCUB/2013 by the Deputy Registrar of Cooperative Societies, Hyderabad.

A perusal of the order in above WPMP reveals that there is no reference to the CTA SR No.580 of 2015. In the said writ petition the attachment order was challenged and when it was pointed out that there was no challenge to the Award made on 30.08.2012 the petitioner filed the appeal with a delay condonation petition. In other words, the subject matter in W.P.No.29999 of 2015 is not the subject matter in I.A.No.171 of 2015. In that view of the matter, the impugned order suffers from non-consideration of the material on record and not advertent to the case on hand.

Learned counsel appearing for the 5th respondent-Bank would urge that the Tribunal may be directed to pass orders within a time frame.

In the circumstances, the writ petition is allowed and the order dated 16.11.2015 passed in I.A.No.171 of 2015 is set aside. The 2nd respondent is directed to take into consideration all the contents made in I.A.No.171 of 2015 and pass appropriate orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

10th March, 2016
Js.