THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.6862 of 2007

O R D E R:

Heard counsel for the petitioner and the Government Pleader for Cooperation appearing for 1st respondent. None appeared for 2nd respondent even though notice in the Writ Petition was served on the 2nd respondent. However, since the matter is of the year 2007, it is being disposed of *exparte*.

2. Petitioner, who is an employee of Karimnagar District Co-operative Central Bank Ltd. and was working as Supervisor therein, was appointed as a Sales Officer under Section 70 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') to execute certificates under Section 71 of the Act passed by the Deputy Registrar of the said Bank. He was then entrusted with execution of E.P.No.1538 of 1999 which related to one Malayala Deshmukh.

3. Certain amounts to the tune of Rs.61,350/- collected by the petitioner were remitted in a separate Sundry account but not to the loan account of the borrower.

4. This fact was brought out in an Enquiry under Section 51 of the Act conducted by the Sub Divisional Cooperative Officer, Peddapally in his enquiry report dt.30.04.2005 into the affairs of Primary Agricultural Cooperative Society, Endapalli (for short 'PACS') to which Society, the borrower-Malayala Deshmukh was indebted. *Inter alia* the said report stated that the petitioner

having collected a sum of Rs.61,350/- did not give credit of the same to the loan account and instead deposited the said amount in a Sundry Account No.LF 32 in the District Cooperative Central Bank, Branch at Choppadandi.

5. Thereupon an order under Section 60(1) of the Act was passed by the Deputy Registrar of Cooperative Societies, Peddapalli (1st respondent) directing recovery of interest @ 18% per annum on the said amount of Rs.61,350/-, to be given credit to the loan account of the borrower.

6. Assailing the same, petitioner filed CTA No.33 of 2006 before the A.P. Cooperative Tribunal, Warangal(3rd respondent).

7. Before the 3rd respondent, petitioner raised two contentions: a) that the amount was kept in Sundry account to transfer it on payment of the remaining amount at the time of sale confirmation; and b) that it was done as per the direction of the Deputy Registrar/OSD of the Karimnagar District Cooperative Central Bank Ltd.

8. The Tribunal on 28.02.2007 in CTA No.33 of 2006 held that there were no written instructions of the Deputy Registrar to deposit the money in Sundry account. It held that whatever amount was recovered, it should have been deposited in the loan account of Deshmukh, instead of being put in a Sundry account, and this act of petitioner caused loss of interest to the PACS, which lent money. It also stated that even if he did put

the money in Sundry account, he should have informed the concerned authority by giving a written note to transfer the amount deposited in the Sundry Account to the loan account of the borrower and there was no evidence of this. It held that non-credit of the amount recovered to the loan account of Deshmukh would make the borrower liable for interest even on the repaid amount. It therefore confirmed the order passed on 01.05.2006 in R.C.No.1396 of 2004 of the 1st respondent.

9. Assailing the same, this Writ Petition is filed.

10. Counsel for petitioner contended firstly that there was no *malafide* intention on the part of the petitioner in not crediting the recovered amount to the loan account of the borrower and putting it in the Sundry account, and that the amount was put in Sundry account, since the entire loan was not repaid, only with an intention to collect the entire loan amount and then credit it to the loan account of the borrower; secondly, that the interest @ 18% imposed by the 1st respondent is excessive, that the petitioner having lost his job would be put to serious hardships, if he is compelled to pay interest at such high rate, and that in the order dt.01.05.2006 passed by the 1st respondent, it was specifically directed that amount of Rs.61,350/- should be credited to the loan account of the borrower by the Manager of the Karimnagar District Co-operative Central Bank Ltd., Choppadandi Branch by transferring the said amount from the Sundry account No. LF 32 opened by the petitioner.

11. As regards the 1st contention, as Supervisor of the loan accounts, petitioner has a duty to recover the loan amounts from the borrowers. Having recovered some amounts from the borrower Malayala Deshmukh, he ought to have credited the same to the loan account of the borrower in the PACS, Endapalli. By keeping it in the Sundry account, which does not yield any interest, petitioner not only caused the PACS to lose interest on the amount repaid by the borrower, but also stopped redemption of liability of the borrower. Apart from this, interest continued to accumulate in the loan account of the borrower for the loan obtained by him, as the amount repaid was not given credit to. Therefore, I do not find any illegality in the action of the 1st respondent in directing the petitioner to make good the loss of interest on the amount of Rs.61,350/-.

12. However, the rate of interest @ 18% per annum levied is very high and in the facts and circumstances of the case, I am of the opinion that interest of justice would be served if the rate of interest is reduced to 9% per annum. However, since the amount in the Sundry account would have been transferred to the loan account of the borrower pursuant to the order dt.01.05.2006 in R.C.No.1396 of 2004, any interest liability imposed on the petitioner would have to end on that date.

13. It is therefore declared that the petitioner is liable to pay interest @ 9% per annum from the date on which he deposited the amount in the Sundry account opened by him in District

Cooperative Central Bank, Karimnagar till 01.05.2006 only.

14. The Writ Petition is allowed to the above extent. There shall be no order as to costs.

15. Consequently, miscellaneous petitions pending if any shall stand closed.

M.S.RAMACHANDRA RAO, J

02nd August, 2017.

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