

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.22168 of 2006

ORDER :

This Writ Petition is filed by the petitioners assailing the order dt.16.05.2006 in C.T.A.No.18 of 2005 of the Andhra Pradesh Co-operative Tribunal, Warangal (4th respondent herein).

2. The 1st respondent was employed as a General Manager in the District Co-operative Central Bank (for short, 'DCCB'), Khammam which is the financing Bank to the 1st petitioner – Society.

3. There was an enquiry under Section 51 of the Act into the affairs of the Society and certain findings had been given therein regarding grant of *benami* loans to certain persons.

4. Thereupon, the Joint Registrar – cum – District Co-operative Officer, Khammam District conducted enquiry under Section 60 of the Andhra Pradesh Co-operative Societies Act, 1964 (for short, 'the Act'), and held that the 1st respondent was liable for a sum of Rs.2,64,456/- with interest thereon.

5. This was questioned by the 1st respondent before the 4th respondent-Tribunal.

6. One of the contentions of the 1st respondent before the said Tribunal was that the Joint Registrar – cum – District Co-operative Officer, who passed the surcharge order under Section 60 on 29.10.2003 against him, had no jurisdiction to do so since he was an

employee of the DCCB and that only the District Collector, or a person authorized by the District Collector, could have done such an enquiry and the Joint Registrar – cum – District Co-operative Officer, Khammam had no such authorization.

7. This contention found favour with the Tribunal and it therefore allowed the appeal and set aside the order dt.29.10.2003 in Rc.No.2770/2002-C passed by the Joint Registrar – cum – District Co-operative Officer, Khammam, while granting liberty to conduct fresh enquiry against the 1st respondent according to law.

8. Though counsel for petitioners sought to contend that there was no necessity to set aside the order passed by the Joint Registrar – cum – District Co-operative Officer, Khammam under Section 60 of the Act passed against the 1st respondent, the fact that the said authority had no jurisdiction to conduct such enquiry under Section 60 of the Act against the 1st respondent, who is an employee of the DCCB, Khammam, is not disputed, nor is it disputed that the said Officer had no special authorization from the District Collector, Khammam to conduct such enquiry.

9. If the said Officer had no jurisdiction to conduct enquiry under Section 60 of the Act, there is no error of jurisdiction in the order passed by the Tribunal allowing the appeal C.T.A.No.18 of 2005 and setting aside the order dt.29.10.2003 in Rc.No.2770/2002-C of the Joint Registrar – cum – District Co-operative Officer, Khammam

without prejudice to conduct of fresh enquiry against the 1st respondent according to law.

10. Therefore, there is no merit in the Writ Petition, and it is accordingly dismissed. No order as to costs.

11. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 01-08-2017

Ndr/*

