

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.8575 OF 2018

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Cooperation (A.P.) appearing for respondent No.1 and Smt. Bobba Vijaya Lakshmi, learned Standing Counsel appearing for respondent Nos.2 to 4.

2. An order passed by the Tribunal constituted under the A.P.Co-operative Societies Act, 1964 (for short, "the Act") in O.A.No.55 of 2017, dated 20.11.2017, is under challenge in the present writ petition.

3. The petitioner herein filed the said appeal under Section 76(1) of the Act assailing the award and order, dated 13.03.2017, in Claim No.26/2016-17 passed by respondent No.4 herein. The Tribunal, after hearing the matter, by way of the order under challenge, dated 20.11.2017, set aside the impugned award and remanded the matter to respondent No.4 for *de nova* enquiry in accordance with law.

4. According to the learned counsel for the petitioner, the petitioner herein, in the grounds of appeal, specifically raised an objection as to the jurisdiction of respondent No.4 in entertaining the claim filed by the respondent Bank, but the Tribunal did not consider the same and remanded the matter. According to the learned counsel, the said course of action ought not to have been resorted to by the Tribunal.

5. On the other hand, it is submitted by the learned Government Pleader and the learned Standing Counsel for the respondent District Cooperative Central Bank that there is no infirmity nor there exists any error in the impugned order and in the absence of the same, the impugned order is not amenable for any judicial review under Article 226 of the Constitution of India. It is further submitted that the impugned order is only an order, remanding the matter to the primary authority and it cannot be said, by any stretch of imagination, that the order impugned would cause prejudice to the petitioner herein. It is also the submission of the learned counsel for the petitioner that after the matter was remanded by the Tribunal, the respondent Bank raised two more claims and the said claims cannot be considered by respondent No.4 while deciding the matter after remand.

6. A perusal of the order under challenge, in clear and vivid terms, discloses that by way of the order impugned, the Cooperative Tribunal, in exercise of the powers conferred under Section 76(1) of the Act, while setting aside the award and order, dated 13.03.2017, in Claim No.26/2016-17, remanded the matter to respondent No.4 for *de nova* enquiry in accordance with law. In the considered opinion of this Court, the objections now raised in the writ petition can be raised by the petitioner herein before respondent No.4 during the course of enquiry. Since it is an order remanding the matter, this Court is not inclined to meddle with the order impugned.

7. Accordingly, the Writ Petition is disposed of, keeping it open for the petitioner herein to raise all the grounds before respondent

No.4 during the course of enquiry and it is open for the petitioner herein to raise additional grounds also before respondent No.4 for consideration within a period of two (2) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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

JUSTICE A.V.SESHA SAI

Date : 19.03.2018
AMD



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