

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

**WRIT PETITION Nos.43903, 43943, 43991, 43993, 43994 &
43995 OF 2018**

DATED :05.12.2018

W.P.No.43903 of 2018 :

Between :

Bharatha Srinivas S/o.Venkaiah,
Age : 48 yrs, Occu : Business,
Near Ashirvad Apartment, Musheerabad,
Hyderabad, Telangana

..

Petitioner

And

The State of Telangana,
Rep., by its Secretary,
Cooperation Department,
Secretariat Buildings,
Secretariat, Hyderabad & others.

..

Respondents



This court made the following :

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COMMON ORDER :

Heard learned counsel for the petitioners and learned Government Pleader for Cooperation for respondents 1 and 2.

2. In all these writ petitions, petitioners claim to have borrowed money from Maheswara Cooperative Housing Society Ltd., which is a part of the Telangana Cooperative Housing Society Federation Ltd., (for short 'the Society'). The 2nd respondent-Society filed application before the Deputy Registrar, under Section 71 of the Telangana State Cooperative Societies Act, 1964 (for brevity 'the Act'), requesting to issue certificate for recovery of the arrears of sum advanced by the 2nd respondent-Society, to the petitioners. In response to the said application, the Deputy Registrar, issued notice dated 29.09.2018, under Section 71 (2) of the Act, calling upon the petitioners to appear before him and to show cause against issuance of certificate for recovery of the amount. It appears, petitioners have submitted their explanations and also claim to have submitted documents in support of their stand that the amounts borrowed from the 3rd respondent-Bank were already paid and no dues are payable to the Society. At this stage, even before a decision is made by the Deputy Registrar to issue certificate, this writ petition is filed.

3. The competency of the Deputy Registrar to entertain the application for issuance of certificate under Section 71 (2) of the Act, is not disputed. Petitioners have also subjected to

jurisdiction to Deputy Registrar by submitting their explanations.

4. Whether petitioners owe money to the Society and whether the certificate can be issued as claimed by the Society are matters which can be gone into in appropriate proceedings only after the Deputy Registrar issues certificate on due consideration of the objections filed by the petitioners.

5. Petitioners may have a valid claim against the issuance of certificate, if a certificate is issued without considering the objections filed by them. But they cannot invoke the jurisdiction of this Court challenging the notice issued to them in valid exercise of power vested in the Deputy Registrar, under Section 71 of the Act, and even before a decision is made by him.

6. It is also appropriate to note from the array of respondents, the Deputy Registrar, who issued notice is not made a party. But the State represented by the Secretary and Cooperation Department is made a party. The notice issued by the Deputy Registrar is in exercise of quasi-judicial power vested in him, under Section 71 of the Act and he ought to have been arrayed as a respondent, as his decision is challenged.

7. Having regard to the above observations, the Writ Petitions are dismissed, leaving it open to the petitioners to work out their remedies as and when the cause of action arises. Pending miscellaneous petitions shall stand closed.

5th December, 2018
Rds

P.NAVEEN RAO,J