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**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD  
(Special Original Jurisdiction)**

THURSDAY, THE THIRTY FIRST DAY OF DECEMBER  
TWO THOUSAND AND TWENTY

**PRESENT**

**THE HON'BLE SRI JUSTICE P. NAVEEN RAO**

**WRIT PETITION NO: 24338 OF 2020**

**Between:**

1. Mohammed Shaik ISA, S/o.shaik Jamal Aged 58 years, Occupation.Agriculture R/o. H.No.8-333, Neela, Renjal Mandal, Nizamabad District.
2. Razia Sultana, W/o.Mohammed Isa Aged 50 years, Occupation.Agriculture R/o.H.No.8-333,Neela, Renjal Mandal, Nizamabad District.
3. Md Moinuddin, S/o.Abdul Qader Aged 49 years, Occupation.Agriculture R/o.2-11, Neela, Renjal Mandal, Nizamabad District.
4. Md Gaffar, S/o.Md Ameen Aged 37 years, Occupation.Agriculture R/o.5-85, Neela, Renjal Mandal, Nizamabad District.
5. Shaik Kaleem, S/o.Shaik Rasool Aged 58 years, Occupation.Agriculture R/o. 7-55, Neela, Renjal Mandal, Nizamabad District.
6. Bonkanapalli Manohar, S/o.Madari Aged 36 years, Occupation.Agriculture R/o.2-59, Neela, Renjal Mandal, Nizamabad District.

**...PETITIONERS**

**AND**

1. The State of Telangana, Rep.by its Principal Secretary, Co-operation Department, Secretariat, Hyderabad.
2. The Commissioner for Co-operation, and Registrar of Co-operative Societies, the State of Telangana, 3rd Floor, Gruhakalpa, Hyderabad
3. The District Collector, Nizamabad District
4. The Assistant Registrar/Sale officer, Nizamabad District Cooperative central Bank Ltd(NDCCB) Nizamabad.
5. The District Co-operative Officer, (DCO) Nizamabad District Co-operative Central Bank Limited (NDCCB) Nizamabad Town and Nizamabad District.
6. The District Chairman, Nizamabad District Co-operative Central Bank Limited Nizamabad Town and Nizamabad District.
7. The Primary Agricultural Co-operative Society., Neela, (PACS) Rep.by its Manager/Secretary, Neela Village, Renjal Mandal, Nizamabad District.
8. Md Imliyaz, S/o.Not known to the petitioner Chief Executive officer(CEO) Primary Agricultural Co-operative Society, Neela, (PACS) Neela Village, Renjal Mandal, Nizamabad District

**...RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ order or direction, more particularly one in the nature of Writ of Mandamus, to set aside the impugned notices dated 18/12/2020 under SEC 71(1) of The Telangana Co-operative Societies Act 1964 vide 1) Case No 741/LT/20-21, 2) Case No 740/LT/20-21, 3) Case No 738/LT/20-21 4) Case No 730/LT/20-21, 5) Case No 714/LT/20-21 6) Case No 739/LT/20-21 issued by the 4th respondent, as illegal, arbitrary, unjust and violation of its rules and Act of Co-operative society act, 1964 and consequently suspend the impugned notices dated 18.12.2020 under SEC 71(1) of The Telangana Co-operative Societies Act 1964 vide 1) Case No 741/LT/20-21, 2) Case No 740/LT/20-21, 3) Case No 738/LT/20-21 4) Case No 730/LT/20-21, 5) Case No 714/LT/20-21 6) Case No 739/LT/20-21 issued by the 4th respondent, pending disposal of the writ petition

**IA NO: 1 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the impugned notices dated 18/12/2020 under SEC 71(1) of The Telangana Cooperative Societies Act 1964 vide 1) Case No 741/LT/20-21, 2) Case No 740/LT/2021, 3) Case No 738/LT/20-21 4) Case No 730/LT/20-21, 5) Case No 714/LT/20-21 6) Case No 739/LT/20-21 issued by the 4th respondent, pending disposal of the writ petition

**Counsel for the Petitioners: SRI T. SUJAN KUMAR**

**Counsel for Respondent Nos. 1 & 2: GP FOR COOPERATION**

**Counsel for Respondent No. 3: GP FOR REVENUE**

**Counsel for Respondent Nos. 4 to 8: ---**

**The Court made the following: ORDER**

**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION NO.24338 of 2020**

**ORDER:**

Heard learned counsel for the petitioners, learned Assistant Government Pleader for Cooperation and learned Assistant Government Pleader for Revenue.

2. Petitioners are aggrieved by the notice issued by the Assistant Registrar/Sale Officer-4<sup>th</sup> respondent on 18.12.2020.
3. Learned counsel for the petitioners sought to contend that several illegalities have taken place and the Chief Executive Officer-8<sup>th</sup> respondent of the Primary Agricultural Co-operative Society, Neela-7<sup>th</sup> respondent herein, committed several illegalities including creating false accounts and obtaining loans. Petitioners never obtained loans and the loans alleged to have been obtained by the petitioners were actually obtained by the 8<sup>th</sup> respondent. These facts are already on record. That being so, illegally the impugned notices are issued at the instance of 7<sup>th</sup> respondent and without looking into this aspect, the Assistant Registrar/Sale Officer issued impugned notices and the same is ex-facie illegal.
4. The notices dated 18.12.2020 are issued under Section 71(1) of the Telangana Co-operative Societies Act, 1964 (for short 'the Act'). This provision enables to recover the arrears of any sum advanced. It requires the concerned Society/Financing Bank/Federal Society to apply to the Sale Officer to issue recovery certificate. On receiving such request, according to the provision in Sub-Section (1), the Sale Officer is required to cause notice on

the persons concerned, who is claimed to have defaulted and after making such enquiry as required, he may issue sale certificate.

5. Thus, from a reading of this provision, it is clear that whenever, a request is made by the Society/Financing Bank/Federal Society, alleging that certain amounts due are not paid and have to be recovered, the Sale Officer can issue sale certificate to enable the Society/Financing Bank/Federal Society to take further steps to recoup the alleged loss caused to them. Before issuing the certificate, the persons against whom the certificate is sought, have to be put on notice. Perforce, since a notice is required to be issued, it implies that the person against whom the notice is issued is entitled to put forth his defence, albeit in the limited context of whether certificate can be issued or not and on filing objections, the Sale Officer is required to enquire into the issue and take a decision. It is not the case of petitioners that 4<sup>th</sup> respondent is not competent to issue notices.

6. Learned counsel for the petitioners sought to contend that the Chief Executive Officer is the actual culprit and proceedings ought to have been issued against him and not to the petitioners. This aspect can also be placed before the Assistant Registrar/Sale Officer. Petitioners may have a grievance only if a decision is made by the Assistant Registrar/Sale Officer to issue certificate of recovery, to work out their remedies. As long as power is available to the Assistant Registrar/Sale Officer who caused notice and when the same is issued in exercise of that power, petitioners can not invoke the jurisdiction of this Court under Article 226 of the Constitution of India and interject the process set in motion, in

accordance with the provisions of law. It can not be said that petitioners are remediless if any adverse decision is made. It is always open to the petitioners to raise all pleas available to them including the pleas urged in this writ petition challenging the notices. As the Court is satisfied that the Assistant Registrar/Sale Officer is competent to issue notices and in valid exercise of power vested in him under Section 71 (1) of the Act notices are issued, the Court is not inclined to entertain the writ petition at this stage.

7. Accordingly, the Writ Petition is dismissed leaving it open to the petitioners to work out their remedies, as available in law. Petitioners are entitled to raise all objections as available in law in response to the impugned notices and on filing such objections, the Assistant Registrar/Sale Officer is directed to examine the same and take a decision assigning due reasons in support of the decision strictly in compliance with Section 71 of the Act and communicate the same to the petitioners. Petitioners are granted two more weeks time from today to file their objections in response to the impugned notices. Pending miscellaneous petitions shall stand closed.

SD/-V.SUDHA  
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Assistant Registrar/Sale officer, Nizamabad District Cooperative central Bank Ltd(NDCCB) Nizamabad.
2. One CC to Sri T Sujan Kumar Advocate [OPUC]
3. Two CCs to GP For Cooperation, High Court for the State of Telangana. [OUT]
4. Two CCs to GP For Revenue, High Court for the State of Telangana. [OUT]
5. Two CD Copies

MBC



HIGH COURT

DATED: 31/12/2020



ORDER

WP.No.24338 of 2020

DISMISSING THE WRIT PETITION

WITHOUT COSTS

ASF-8  
5/1/2021