

HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

WRIT PETITION No.5755 OF 2023

ORAL ORDER:

Heard Sri P. Veera Reddy, Learned Senior Counsel appearing on behalf of Ms. Sodum Anvesha, Learned Counsel for the Writ Petitioner and Sri Aswartha Narayana, Learned Counsel appearing for Government Pleader for Agriculture and Cooperation.

2. The challenge in this Writ Petition is to set aside the Docket Order passed by the Court of A.P. Cooperative Tribunal, Vijayawada dated 03.02.2023 in M.P.No.52 of 2021 in O.A.No.59 of 2018.

3. Learned Counsel for the Writ Petitioner has drawn the attention of this Court to an Order passed by the Tribunal in O.A.No.59 of 2018, dated 11.05.2021 (Ex.P5). The Order of the Tribunal indicates that, while agreeing with the contention of the Writ Petitioner, the Surcharge Proceedings initiated against the Writ Petitioner were held to be invalid in as much as the Principles of natural justice have been violated and consequently remanded the matter back to the Primary Authority.

4. Sri P. Veera Reddy, Learned Senior Counsel has also drawn the attention of this Court to the fact that this Order passed by the Tribunal in O.A.No.59 of 2018, dated 11.05.2021 was challenged by the Writ Petitioner in W.P.No.16725 of 2021. The present Writ Petitioner has assailed the Order of the Tribunal dated 11.05.2021 on the ground that the Tribunal ought not to have remanded the matter to the Primary Authority. Learned Single Judge of this Court, having sustained the contention raised by the Writ Petitioner, allowed the Writ Petition bearing W.P.No.16725 of 2021 by Order dated 18.10.2022.

5. Facts in this case indicate that after the Writ Petition bearing W.P.No.16725 of 2021 came to be allowed on 18.10.2022, the Writ Petitioner approached the Tribunal to return certain property documents furnished before the Tribunal as Security in compliance with an Interim Order passed by the Tribunal on the earlier occasion.

6. The Tribunal, by the Impugned Order dated 03.02.2023 had dismissed the application. On perusal of the Impugned Order passed by the Tribunal dated

03.02.2023, it appears to this Court that the factum of W.P.No.16725 of 2021 having been allowed was not brought to the notice of the Tribunal. In this view of the matter, the Tribunal, being under the impression that since the proceedings have not been determined/concluded, and that by virtue of its earlier Order of Remand, it was assumed by the Tribunal that the Proceedings are still pending. Therefore, in the abovementioned backdrop, the Tribunal had erroneously dismissed the Miscellaneous Petition bearing M.P.No.52 of 2021 in O.A.No.59 of 2018.

7. Learned Counsel for the Respondents, at this stage, has drawn the attention of this Court to the Order passed by this Court dated 18.10.2022 in W.P.No.16725 of 2021.

The relevant portion of the order is extracted hereunder:

“In the circumstances, the 3rd respondent does not have jurisdiction nor any power delegated to the 3rd respondent by way of G.O.Ms.No.34 to initiate action under Section 60 of the Act.

Accordingly, this writ petition is allowed setting aside the show cause notice dated 28.06.2021 in Rc.No.495/2018-C, leaving it open to the appropriate authority to initiate proceedings. There shall be no order as to costs.”

8. The Order indicates that the Show Cause Notice issued by the Primary Authority dated 28.06.2021 under Section 60 of the Act in Rc.No.495/2018-C was set aside, however leaving it open to the appropriate authority to initiate proceedings.

9. It is informed by Sri Aswartha Narayana, Learned Government Pleader for Agriculture and Cooperation that after disposal of the abovementioned Writ Petition No.16725 of 2021, the Respondent Authorities issued Proceedings bearing Rc.No.860/2018-C2, dated 08.02.2023, to the effect that the present President of the Society is directed to file certain material papers in connection with the alleged irregularities of the Petitioner and two others. In so far as these proceedings are concerned, this Court holds that since this is a fresh Proceeding (RC.No.860/2018-C2 dated 08.02.2023), the same shall be dealt with by the Official Respondents on its own merit in accordance with law. The Court further holds that either the Official Respondents or the Tribunal can retain the property documents on the basis of the proceedings in Rc.No.860/2018-C2 dated 08.02.2023.

10. In view of these facts, as narrated above, the Tribunal would have no authority to withhold the documents which were submitted by the Writ Petitioner as a Security in compliance of an Interim Order. In the light of the fact that the Order passed by the Learned Single Judge dated 18.10.2022 in W.P.No.16725 of 2021 has attained finality, as indicated hereinabove, the Tribunal had passed the Impugned Order under a mistake of fact that its Order of Remand has the effect of pendency of proceedings before the Primary Authority and that the Tribunal was not provided with the information about the setting aside of the Order of the Remand by this Court in W.P.No.16725 of 2021, dated 18.10.2022.

11. In this view of the matter, the Writ Petition is allowed. There shall be no order as to costs.

12. Interlocutory Applications, if any, stand closed in terms of this order.

G. RAMAKRISHNA PRASAD, J

Dt: 09.03.2023

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