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APHC010125492026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3597]**
(Special Original Jurisdiction)

WEDNESDAY, THE 1st DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE D RAMESH

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

<u>WRIT APPEAL NO: 263/2026</u>

Writ Appeal under clause 15 of the Letters Patent above named Appellants begs to present this Memorandum of Writ Appeal aggrieved by the Order, dt.20.12.2025 in W.P.No.20581/2025 passed by the Learned Single Judge of this Honble High Court

Between:

1. THE SPECIAL OFFICER, PERSON IN CHARGE, THE NELLORE DISTRICT P AND T EMPLOYEES- COOPERATIVE CREDIT SOCIETY LTD. ACHARI STREET, HEAD POST OFFICE, SPSR NELLORE DISTRICT, NELLORE - 524001

2. THE MANAGER, POST AND TELEGRAPH EMPLOYEES CO-OPERATIVE CREDIT SOCIETY LTD. SPSR NELLORE DISTRICT, NELLORE - 524001

...APPELLANT(S)

AND

1. KAVALI VENKATESWARA RAO, S/O. VENKAIAH, AGED ABOUT 60 YEARS, R/O. D.NO.28-9-1490, AMBEDKAR COLONY, VENKATESWARAPURAM, NELLORE, SPSR NELLORE DISTRICT 520010

2. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRI. SECRETARY, CO-OPERATIVE SOCIEITES, SECRETARIAT, VELAGAPUDI, AMARAVATHI 522238

3. THE DEPUTY REGISTER OF COOPERATIVE SOCIETIES, NELLORE, SPSR NELLORE DISTRICT - 524001

4. THE DISTRICT COOPERATIVE OFFICER, NEAR COLLECTORATE BUILDING, SPSR NELLORE DISTRICT, NELLORE - 524001

5. THE DIVISIONAL COOPERATIVE OFFICER, OLD JUBLIE HOSPITAL, MADRAS BUSSTAND, SPSR NELLORE DISTRICT, NELLORE - 524001.

...RESPONDENT(S):

IA NO: 1 OF 2026

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 pleased to dispense with the filing of the Certified copy of the Order, dt 20.12.2025 passed in W.P.No.20581/2025 pending disposal of this Writ Appeal and pass

IA NO: 2 OF 2026

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 pleased to condone the delay of 47 days in filing the present Writ Appeal and pass

IA NO: 3 OF 2026

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 pleased to suspend the operation of Order, dt.20.12.2025 in W.P.No.20581/2025 passed by the Learned Single Judge of this Hon'ble Court pending disposal of the Writ Appeal and pass

Counsel for the Appellant(S):

1. SURAGANI KRISHNA VAMSI

Counsel for the Respondent(S):

1. GP FOR SERVICES II

2. GUDISEVA VENKATA SAI KIRAN

The Court made the following:

THE HONOURABLE SRI JUSTICE D RAMESH

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

WRIT APPEAL NO: 263/2026

ORDER: (*Per* Hon'ble Sri Justice D.Ramesh*)*

1. Heard the learned counsel for the appellants and the learned counsel for the respondents.

2. The present writ appeal is filed aggrieved by the order dated 20.12.2025 in W.P.No.20581 of 2025 passed by the learned Single Judge of this court. The writ petition was disposed of with the following observations:-

> *(6) The surcharge order issued against the Petitioner was set aside by the Tribunal and the operative portion of the order reads as under:-*
>
> > *"13. From the above judgment it is further clear that the surcharge shall commence with proper show cause notice with all the allegations. In the absence of show cause notice, it can be said that there is no basis for enquiry contemplated under section 60 of APCS Act, 1964. For all the reasons above, the surcharge against the appellant is baseless i.e., without show notice and the explanation and it is liable to be set aside. Factually also the income tax liability imposed on the Society cannot be the result of inaction on the part of the appellant, but the Society, represented by the PIC, failed to satisfy the authorities in explaining the amounts credited to the Society Bank account. Accordingly, the point is answered.*

In the result, appeal is allowed and the surcharge order in RC.No.486/2021/C, dated 30.01.2023 is set aside. No costs."

(7) In the light of the above, withholding the retirement benefits by the Respondents is without any basis. The retirement benefits are construed as a property under Article 300A of Constitution of India and withholding the same cannot be sustained, except in accordance with law.

(8) In the present case, as no reason is forthcoming, withholding the retirement benefits of the Petitioner cannot be sustained.

(9) Therefore, the writ petition is disposed of with the following directions:-

(i) The Respondents are directed to disburse the retirement benefits to the Petitioner with of interest @9% for delayed payment, within a period of eight (08) weeks from the date of receipt of a copy of this order.

(ii) There shall be no order as to costs.

3. The learned counsel appearing for the appellants submits that the writ petition was disposed of by placing reliance upon the order passed by the Tribunal in the surcharge proceedings. He further submits that the appellants had presented a counter-affidavit on 18.12.2025. However, certain office objections were raised by the Registry and, since the same could not be complied with immediately, the counter-affidavit was not taken on file. However, before the office objections could be complied with and the relevant facts could be placed before the learned Single

Judge, the writ petition was disposed of on 20.12.2025. It is therefore, contended that, although the counter-affidavit had been presented prior to the disposal of the writ petition, the same could not be taken on file for the reasons stated above. Consequently, the learned Single Judge had no occasion to consider the contentions raised by the appellants in the counter-affidavit while deciding the writ petition. The learned counsel prays that the impugned order be set aside and the matter be remanded to the learned Single Judge for fresh consideration after taking the counter-affidavit on record.

4. Per contra, the learned counsel appearing for the respondent opposed the appeal, submitting that on 18.12.2025, the learned counsel for the appellant was unable to place the necessary instructions before the learned Single Judge. Taking note of the same, the learned Single Judge proceeded to dispose of the writ petition. It is further submitted that sufficient opportunity had been afforded to the learned counsel before passing the order. Accordingly, the learned counsel prays that the appeal be dismissed.

5. Having considered the submissions made by the learned counsel on either side and upon perusal of the material available on record, this Court finds that though the learned Single Judge has taken into consideration the order passed by the Tribunal in the surcharge proceedings, the fact remains that the said order of the Tribunal had already been assailed before this Court in separate proceedings. It is also evident that the counter-affidavit sought to be filed by the appellants could not be taken on record owing to office objections. Consequently, the contentions raised therein were not available for consideration while disposing of the writ petition. In the interest of justice and to afford an effective opportunity to both parties, this Court is of the considered opinion that the matter warrants reconsideration by the learned Single Judge after taking the counter-affidavit of the appellants on record.

6. Accordingly, the writ appeal is allowed by setting aside the impugned order dated 20.12.2025 passed in W.P. No.20581 of 2025 and the matter is remanded to the learned Single Judge for fresh consideration and disposal in accordance with law after taking the counter-affidavit of the appellants on record and

affording due opportunity to all the parties. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE D.RAMESH

JUSTICE B V L N CHAKRAVARTHI

Date: 01.07.2026
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THE HONOURABLE SRI JUSTICE D RAMESH

THE HONOURABLE SRI B V L N CHAKRAVARTHI

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WRIT APPEAL No.800 of 2008

Dated: 01.07.2026

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