(2002) 02 AP CK 0169

In the Andhra Pradesh High Court

Case No : Writ Petition No. 18555 of 1993

Ramalingam and Others APPELLANT

Vs

State of A.P. and Others RESPONDENT

Date of Decision : 12-02-2002

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2002) 3 ALD 330 : (2002) 3 ALT 462

Hon'ble Judges : Ghulam Mohammed, J

Bench : Single Bench

Advocate : P. Sundaraiah, for the Appellant; C.V. Rajeeva Reddy and Government Pleader for Industries, for the Respondent

Final Decision : Dismissed

Judgement

Ghulam Mohammed, J.—The petitioners are weavers by profession and in view of the rapid industrialisation, they were facing certain problems and formed a registered society viz., Sri Siddeswara Swami Silk Weavers Co-operative-cum-sales Society Limited and approached the 4th respondent bank for loan and the 4th respondent bank extended the loan of Rs. 10,000/- to the petitioners for purchase of instruments.

2. Due to subsequent events they are not in a position to repay the dues and sought for relief under Agricultural and Debt Relief Scheme and the bank having considered their request granted the relief indicated in the scheme. However, the petitioners herein contend that they are entitled to total waiver of loan amount i.e., Rs. 10,000/-.

3. The first respondent issued G.O. Ms. No. 665 dated 17-10-1990 providing 50% of the cost of the debt relief would be borne by the Government of India and the Government of India offered to provide loan to the State Government to meet the balance of 50% throwing NABARD. It is also stated that the Government Order provides for elaborate procedure for extending the debt relief.

4. It is thus contended that the petitioners are eligible to the debt relief and instead of providing the relief, the respondent bank issued notices calling upon the petitioners to repay the outstanding amounts and threatening to take coercive steps.

5. Court affidavit is filed stating that under the guidelines of the Agricultural and Rural Debt Relief Scheme, 1990, Clause 2(g) states that eligibility means "that part of the short-term loans including converted/reschedule medium term loan availed by an individual borrower on or after 1-4-1986, the instalment of the short-term loan falling due after 2-10-1986 which was overdue as on the effective date i.e., 2-10-1989 and includes overdue interest". It is also stated in the counter affidavit that petitioner Nos. 1, 4, 6, 12, 15 and 17 are eligible for the relief under the scheme and got claim of Rs. 3,000/-, Rs. 1,000/-, Rs. 250/-, Rs. 200/-, Rs. 600/- and Rs. 70/-respectively and that the said amounts were got adjusted to then loan accounts, that since the remaining petitioners are not eligible under the said scheme, notices are issued and that the said action on the part of the bank is neither illegal nor arbitrary and the same was permissible under the law. It is further stated that the petitioners have not impleaded the proper and necessary parties i.e., Central Government in the writ petition and the Government of India and Reserve Bank of India and contended that the bank has examined the scheme and as per entitlement, it has extended the benefit to respective parties and adjusted the amounts in their respective accounts. It is submitted that only few persons who have not repaid the loan amounts have approached this Hon''ble Court and that this Hon''ble Court cannot entertain writ petition dealing with commercial transactions and the learned Government Pleader drawn my attention to judgment of Hon''ble Supreme Court in Central Bank of India Vs. Rooplal Bansal, , wherein it is held as follows:

"In our opinion, the High Court was not right in entertaining the writ petition. The transaction between the parties was purely commercial one. Admittedly, the respondent had stood as guarantor is respect of the loans which had been advanced by the appellant. For the realisation of the amount, the appellant had filed a suit in a Court of competent jurisdiction. If the respondent had any grievance in respect of letter dated 7-10-1986, then the appropriate remedy available to the respondent was to file a civil suit and the High Court ought not to have entertained the writ petition under Article 226 of the Constitution especially when the disputed questions of fact had to be gone into. On this ground along, the judgment of the High Court is liable to be set aside."

6. In the circumstances, I do not find any infirmity legal or otherwise. The writ petition fails, accordingly, the same is dismissed. However, in the circumstances of the case, there shall be no order as to costs.

