(1997) 12 AP CK 0053

In the Andhra Pradesh High Court

Case No : Writ Petition No. 22630 of 1996

S. Papi Reddy APPELLANT

Vs

Rayalaseema Farmers Service Co-op. Society Ltd. and Others RESPONDENT

Date of Decision : 09-12-1997

Acts Referred:

Citation : (1998) 2 ALD 111 : (1997) 6 ALT 702 : (1998) 2 AnWR 492 : (2000) 102 CompCas 45

Hon'ble Judges : Bilal Nazki, J

Bench : Single Bench

Advocate : T. Niranjan Reddy, for the Appellant; C. Praveen Kumar, for the Respondent

Judgement

Bilal Nazki, J.—The petitioner had obtained a loan of Rs. 82,500 being a small farmer from the respondent society for purchase of a tractor on May 8, 1979. After obtaining the loan the petitioner purchased tractor bearing No. APD 6427. The petitioner submits that because of drought and some other accompanying circumstances the loan amount could not be repaid by him in seven instalments which was the requirement when the loan was granted to the petitioner. The last instalment was payable at the end of year 1986, i.e., June 30, 1986. By January 10, 1986, the petitioner had paid an amount of Rs. 93,074. The petitioner further states that the State of Andhra Pradesh has suffered last several years continuously because of floods and cyclones and this aspect was considered by the Government of Andhra Pradesh and it was pleased to provide concessions to the agriculturists so that their burden of debt gets lessened. G.O. Ms. No. 7 (F and A) (Co-op. III), dated January 5, 1987, was issued by the Government for this purpose. By this Government order certain benefits were given to the farmers. The benefits extended by the Government order would also include waiving of interest and penal interests on arrears of co-operative loans. The Government order further provided that where due dates for repayment of loans have occurred between July 1, 1986, and the date of the Government order the loanees can avail of the concessions granted by the Government order provided they repaid the entire principal amount due against them within one month of the issue of the Government order. The petitioner states that when he came to know about the issuance of the Government order, he approached the first respondent and requested him to settle his loan account by applying the said Government order as he was prepared to pay the principal due. But the first respondent told him that instructions regarding rebate of interest had not been received by him but the petitioner states that later on another Government order was passed being G.O. Ms. No. 230, dated May 4, 1987, by which the benefits granted under G.O. Ms. No. 7 of 1987 were extended to the members of primary co-operative societies financed by commercial banks as well. The petitioner again along with some other loanees approached the first respondent with a request that their claim be settled in accordance with G.O. Ms. No. 7 of 1987 and G.O. Ms. No. 230 of 1987. The first respondent did not do anything. The petitioner and some other loanees thereafter filed Writ Petition No. 8387 of 1987. In this writ petition they sought direction against the respondents to settle the claims of the members in terms of the Government orders above. The court directed the first respondent to settle the claims of the members in terms of the Government orders in WP MP No. 11112 of 1987, dated June 25, 1987. The copy of the order was produced by the petitioner before the first respondent and again the petitioner requested the first respondent to settle his claim as he had already paid Rs. 93,074 as against the loan of Rs. 82,500. The first respondent did not accede to the request of the petitioner that the amount paid by him be taken as payment against the loan on the ground that the amount of Rs. 93,074 which the petitioner had paid had been adjusted against the interest, therefore he would have to pay Rs. 81,548 with further interest from October 1, 1986. The case of the petitioner is that, in terms of the Government orders if on a particular date the loanee had paid the principal amount, then, the interest would be waived. The petitioner submits that since he had paid Rs. 93,074 by the relevant date, therefore, he would be entitled to the reliefs under the said Government orders as the loan taken by him was only Rs. 82,500.

2. Counter has been filed and I have heard learned counsel for the parties. Before going through the counter and the contentions of the respondents it is necessary to go through the proceedings of Writ Petition No. 8703 of 1987. It will be pertinent to note that another writ petition was also filed by some of the loanees including the writ petitioner being Writ Petition No. 8387 of 1987. In Writ Petition No. 8703 of 1987 the court passed the following order on June 17, 1994 :

"There is no dispute that the petitioner obtained loan from agricultural co-operative society. Therefore, I think it just and proper to direct the petitioner to file a petition before the concerned authority within two months from today. On filing such a petition, the authorities are directed to consider whether the abovesaid Government orders are applicable to the petitioner or not. If they are applicable, the benefit provided in the Government orders shall be extended to the petitioner."

3. Writ Petition No. 8387 of 1987 was also decided on the same day as the first one. The following extract of the order needs to be reproduced :

"The respondents filed counter and in para. 3 it is stated that the Government issued G.O. Ms. No. 230, dated May 4, 1987, extending the benefits granted in G.O. Ms. No. 7, dated January 5, 1987, to the members of primary agricultural co-operative societies financed by commercial banks.

In view of the above averment made in the counter stating that the benefits of G.O. Ms. No. 7, dated January 5, 1987, will be extended to the members of primary agricultural co-operative societies, no further orders are necessary in this writ petition. The respondents are directed to consider the case of the petitioners in view of the above averment."

4. By virtue of these orders passed by this court there cannot be any dispute whether the Government orders referred to above were applicable to the petitioner or not. It has been conceded by the respondents in the earlier proceedings that the Government orders were applicable to the petitioner and the court has already passed orders that these Government orders were applicable to the petitioner. Therefore, no objection can be entertained that the Government orders were not applicable to the petitioner.

5. Now, the only question that remains is whether the petitioner was entitled to any relief under the Government orders. The respondent''s case is that he was not entitled because the money he had paid was adjusted against the interest. This could not be the intention of the Government order. The respondents in their counter have stated that the loan had been advanced to the father of the petitioner who had in the meantime died. They have stated that he had to pay Rs. 81,548 towards principal and subsequent interest from January 10, 1986. The respondents have given the detailed account sheet maintained by them. It has been admitted by the respondents in their counter that the petitioner had in all paid Rs. 93,074.20 but it has been adjusted in the following manner :

Rs. Towards penal interest 731.70 Towards interest 87,759.50 Towards principal 4,583.00 ------------ Total 93,074.20 ------------

By adjusting the amount paid which is much more than the loan advanced against the interest the respondents have followed the normal method of regulating the loan cases.

6. The intention of the Government orders was that, once the principal amount is received back by the bankers the concerned parties be given the relief of waiver of the interest. Conditions (A) and (B) which have been reproduced at para. 3 of the counter show it amply that the intention of the Government was that the loanees must pay the actual amount which was advanced to them by way of loan. Since in this case the petitioner had already paid much more amount than the loan advanced to him, therefore his case squarely falls within the ambit of the Government orders. Therefore, he is entitled to the benefits under the

Government orders. When a loanee takes a loan and repays it, he always tries to liquidate the loan and it is only the bankers which according to their own norms adjust it either against the principal amount or against the interest. But, if such a normal interpretation is given to the Government orders that the money already paid by the petitioner is adjusted against the interest, then, in no case would benefits accrue to the loanees if the Government orders referred to above are passed for giving benefits to the loanees. The orders will become redundant and the relief sought to be given illusory.

7. For these reasons I allow this writ petition and direct the respondents to adjust the amount paid by the petitioner against the principal amount and settle the claim of the petitioner in accordance with the directions given hereinabove. The notice issued to the petitioner on this count and impugned in this petition is hereby quashed.

8. No order as to costs.

9. That rule nisi has been made absolute as above.