
(2002) 01 AP CK 0109
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 710 of 1998

The Rayalseema Farmers" Service Cooperative Society Limited APPELLANT

Vs

G. Papi Reddy and Others RESPONDENT

Date of Decision : 21-01-2002

Acts Referred:

Citation : (2002) 01 AP CK 0109

Hon'ble Judges : S.R.K. Prasad, J;S.R. Nayak, J

Bench : Division Bench

Advocate : A. Krishnam Raju, for the Appellant; T. Niranjan Reddy, for the Respondent

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—This Writ Appeal is by the Rayalseema Farmers" Service Cooperative Society Limited assailing the validity of the order of the learned single Judge of this Court dated 9.12.1997 made in W.P.No.22630 of 1996 allowing the writ petition of the 1st respondent herein and directing the appellant herein as under :

"For the 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. No order as to costs."

2. The learned Standing Counsel appearing on behalf of the appellant-society would contend that G.O.Ms.No.7, Food and Agriculture (Coop.III) Department, dated 5.1.1987 and G.O.Ms.No.230, Food and Agriculture (Coop.III) Department, dated 4.5.1987 are not applicable to the appellant-society and alternatively, he would contend that even if the above two government orders are held to be applicable to the appellant-society, even then, the 1st respondent-loanee is not

entitled to the relief which he has secured at the hands of the learned single Judge. We do not find any merit in either of the two contentions of the learned counsel for the appellant. As regards the first contention, suffice it to state that even according to the appellant-society, as reflected in its counter filed in W.P.No.8387 of 1987, the benefits of G.O.Ms.No.230, dated 4.5.1987 and G.O.Ms.No.7, dated 5.1.1987 are required to be extended to the members of the appellant-society. This fact is noticed by the learned single Judge in the order. The appellant cannot be permitted to approbate and reprobate. In other words, it cannot be permitted to change its stand from case to case. Although the learned Standing Counsel for the appellant would strenuously contend that such a statement was not made by the appellant-society in W.P.No.8387 of 1987, this factual plea is not supported by the pleading in the first instance and secondly, for the reasons best known to it, the appellant has not produced a copy of the counter filed in W.P.No.8387 of 1987. In the absence of the plea and proof, the above contention of the learned counsel for the appellant is required to be noticed only to be rejected.

3. This takes us to the second contention of the learned counsel for the appellant. G.O.Ms.No.7, dated 5.1.1987, which is made applicable to the appellant-society by virtue of the subsequent G.O.No.230, dated 4.5.1987, provides relief to the loanees under two circumstances. They are setout in clause (a)(b) of G.O.Ms.No.7, dated 5.1.1987. They are :

a) Incentive interest rebate will be provided for repayment on or before the due date of current cooperative loans by subsidizing interest to an extent of 5.5%.

b) Interest and penal interest on arrears of cooperative loans will be waived in full provided the principal overdue as on 30th June, 1986 is repaid in full on or before 30th June, 1987.

4. We are not concerned with clause (a) situation, but we are concerned with clause (b) situation in this case. Admittedly, the 1st respondent-loanee has paid a sum of Rs.93,074.20 ps before the cut-off date i.e., on or before 30.6.1987. Therefore, clause (b) of G.O.Ms.No.7, dated 5.1.1987, extracted above, gets attracted and by virtue of that clause, the 1st respondent-loanee is not liable to pay either interest or penal interest and the payment made by him is required to be adjusted towards the principal overdues only. In that view of the matter, no exception can be taken to the direction issued by the learned single Judge directing the appellant-society to adjust the amount paid by the 1st respondent-loanee against the principal amount and settle the claim of the 1st respondent. No ground is made out for our interference.

5. The Writ Appeal is devoid of merits and it is accordingly dismissed with no order as to costs.