

HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND

HON'BLE SRI JUSTICE K.C. BHANU

W.A.No.1677 of 2013

Date: 03-10-2013

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Between:

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D. Manoharamma

-
..... Appellant

And _____

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1. **The District Co-operative Officer,**
Chittoor, Chittoor District.
and others.

-
..... Respondents

HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND

HON'BLE SRI JUSTICE K.C. BHANU

W.A.No.1677 of 2013

JUDGMNET: (Per Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta)

This appeal is sought to be preferred against the judgment and order of the learned single Judge dated 11-06-2013 by which His Lordship, in the absence of the writ petitioner-appellant, passed the impugned order having found that there is alternative remedy of appeal before the Cooperative Tribunal, and has given liberty to prefer appeal.

The learned single Judge, in exercise of his discretion, at the threshold has decided not to entertain the writ petition as there is alternative remedy. Once this discretion is exercised, the appellate Court shall not substitute its own discretion allowing to entertain the appeal for hearing. Then the only question remains is whether Section 76 of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'said Act') provides for any appeal or not. Therefore, we

set out Section 76 of the said Act, which reads as follows:

“76. Appeal:-- (1) Any person or society aggrieved by any decision passed or order made under Section 6, Section 9A, Section 9B, Section 9C, Section 12A, Section 13, Section 16, Section 17, Section 19, Section 21, Section 21A, Section 21AA, Section 23, sub-section (3) of Section 32, Section 34, Section 34A, Section 60, Section 62, Section 64, Section 66, Section 70, Section 71, Section 73 and Section 117 may appeal to the Tribunal:

Provided that nothing in this sub-section shall apply to any order of withdrawal or transfer of a dispute under sub-section (3) of Section 62.

(2) On a reference made by the Registrar of Cooperative Societies, the Tribunal shall call for and examine the records of any proceeding which is appealable to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and where it appears to the Tribunal that any such decision or order should be modified annulled or reversed, the Tribunal may pass such order thereon as it may deem fit:

(3) Any appeal under sub-section (1) shall, subject to the other provisions of this Act, be preferred within sixty days from the date of communication to the appellant of the decision, refusal or order complained of but the Tribunal may admit an appeal preferred after the said period of sixty days, if it is satisfied that the appellant has sufficient cause for not preferring the appeal within the said period.

(4) In disposing of an appeal under this section, the Tribunal may, after giving the parties an opportunity of making their representations, pass such order thereon as it may deem fit.

(5) The decision or order of the Tribunal on appeal shall be final.

(6) The Tribunal may pass such interim orders pending the decision on the appeal as may deem fit.

(7) The Tribunal may award costs in any proceedings before that authority to be paid either out of the funds of the society or by such party to the appeal as the Tribunal may deem fit.”

The scope of the section is very wide. It gives liberty to prefer the appeal not only to the parties before the subordinate authorities, but also to third party as well when the dispute was decided under Section 60 of the said Act. Under the circumstances, we think that the learned single Judge has passed appropriate order and we do not find any reason to interfere with the same.

The writ appeal is, accordingly, dismissed. All the points are kept open to be decided in appeal. No order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

K.J. SENGUPTA, CJ

K.C. BHANU, J

Date: 03-10-2013
YCR