

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

WRIT APPEAL NO: 889 & 915 OF 2024

W.A.No.889 OF 2024

Writ Appeal under clause 15 of the Letters Patent against the order dated 03-05-2024 in W.P No. 2228 of 2020 on the file of the High Court.

Between:

Mohd. Mazurullah, S/o. Late Haji Shaik Fareed Aged about 51 years, Partner of Rahamath Function Plaza, R/o. H.No.11-3-115, Bazarghat, Hyderabad.

...APPELLANT

AND

1. The Prudential Cooperative Bank Ltd, Rashtrapathi Road, Secunderabad Rep. by its Liquidator.
2. The State of Telangana, Represented by its Principal Secretary, Department of Co-operative, Hyderabad.
3. The A.P. Cooperative Tribunal, At MJ Market, Nampally, Hyderabad Rep. by its Chairman.
4. Rahmath Function Plaza, 8-4-315/6/1/2, Rahmath Tower, Laxmi Complex, Erragadda, Hyderabad Rep. by its Managing Partner M.A. Kaleemullah Shabbir.
5. M.A. Kaleemullah Shabbir, S/o. Mohd. Raha,atulla, Aged about 50 years, Occ. Managing Partner of Rahamath Function Plaza, R/o.11-2-1002, Nampally, Hyderabad
6. Noorjahan Begum Alias Zulikha Afsat, W/o. Kalleemullah Shabbir, Aged about 45 years, R/o.11-1-1204/1/2, Afzalsagar, Mallepalli, Hyderabad.
7. Taranam Saba Alias Asgari Begum, W/o. Kalleemullah Sabir, Aged about 37 years, Partner of Rahamath Function Plaza, R/o. 5-7-122/14/1, Nampally, Hyderabad.
8. Mohd. Anwarullah, S/o. Late Haji Shaik Fareed, Partner of Rahamath Function Plaza,
9. Mohd. Asadulla, S/o. Late Haji Shaik Fareed, Aged 53 years, 8th and 9th area R/o. H.No.11-3-1155. Bazarghat, Hyderabad.

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10. Mohf. Hasidulla, S/o. Late Haji Shaik Fareed Aged about 49 years, Occu. Business, R/o. 11-3-1155, Bazarghat, Hyderabad.
 11. Hameedulla, S/o. Late Haji Shaik Fareed Aged about 44 years, Occu. Business, R/o. 1-1-380/204/11, Ashok Nagar X Road, Hyderabad.
 12. Mohd. Sanaullah Khan, S/o. Late Md. Hussain Khan, H.No. 11-2-544, Near Habeeb Nagar P.S., Nampally, Hyderabad. Respondents No. 4 to 12 are not necessary Parties

...RESPONDENTS

IA NO: 1 OF 2024

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 to suspend orders passed in WP No. 2228 of 2020 dated 03.05.2024.

W.A.NO: 915 OF 2024

Writ Appeal under clause 15 of the Letters Patent Against the Order Dated 03/05/2024 in W P No 2240 of 2020 on the file of the High Court.

Between:

Mohd. Mazurullah, S/o. Late Haji Shaik Fareed Aged about 51 years, Partner of Rahamath Function Plaza, R/o. H.No. 11-3-115, Bazarghat, Hyderabad.

...APPELLANT

AND

1. The Prudential Cooperative Bank Ltd, Rashtrapathi Road, Secunderabad Rep. by its Liquidator.
2. The State of Telangana, Represented by its Principal Secretary, Department of Co-operative, Hyderabad.
3. The A.P. Cooperative Tribunal, At M3 Market, Nampally, Hyderabad Rep. by its Chairman.
4. Rahmath Function Plaza, 8-4-315/6/1/2, Rahmath Tower, Laxmi Complex, Erragadda, Hyderabad Rep. by its Managing Partner M.A. Kaleemullah Shabbir.
5. M.A. Kaleemullah Shabbir, S/o. Mohd. Raha, atulla, Aged about 50 years, Occ. Managing Partner of Rahamath Function Plaza, R/o. 11-2-1002, Nampally, Hyderabad
6. Noorjahan Begum Alias Zulikha Afsat, W/o. Kalleemullah Shabbir, Aged about 45 years, partner of Rehamath function plaza, R/o. 11-1-1204/1/2, Afzalsagar, Mallepalli, Hyderabad.
7. Taranam Saba Alias Asgari Begum, W/o. Kalleemullah Sabir, Aged about 37 years, Partner of Rahamath Function Plaza, R/o. 5-7-122/14/1, Nampally, Hyderabad.

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8. Mohd. Anwarullah, S/o. Late Haji Shaik Fareed, Partner of Rahamath Function Plaza,
 9. Mohd. Asadulla, S/o. Late Haji Shaik Fareed, Aged 53 years, 8th and 9th area R/o. H.No.11-3-1155, Bazarghat, Hyderabad.
 10. Mohf. Hasidulla, S/o.Late Haji Shaik Fareed Aged about 49 years, Occu. Business, R/o.11-3-1155, Bazarghat, Hyderabad.
 11. Hameedulla, S/o. Late Haji Shaik Fareed Aged about 44 years, Occu. Business, R/o.1-1-380/204/11, Ashok Nagar X Road, Hyderabad.
 12. Mohd. Sanaullah Khan, S/o.Late Md. Hussain Khan, H.No.11-2-544, Near Habeeb Nagar P.S., Nampally, Hyderabad. (Respondents No.4 to 12 are not necessary Parties).

...RESPONDENTS

IA NO: 1 OF 2024

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 to suspend orders passed in WP No.2240 of 2020 dated 03.05.2024.

Counsel for the Appellants in W.Ps : SRI CH.JANARDHAN REDDY

Counsel for the Respondent No.1 in W.Ps : SRI ANAND KUMAR KAPOOR

**Counsel for the Respondent No.2&3 in W.Ps : Ms.B.MOHANA REDDY,
GP FOR COOPERATION**

Counsel for the Respondent No.4to12 in W.Ps : --

The Court made the following: COMMON JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J. SREENIVAS RAO

WRIT APPEAL Nos.889 and 915 of 2024

COMMON JUDGMENT: *(Per the Hon'ble Justice J.Sreenivas Rao)*

These intra Court appeals are filed invoking the provisions of Clause 15 of Letters Patent, aggrieved by the common order passed by the learned Single Judge in W.P.Nos.2228 and 2240 of 2020, dated 03.05.2024.

2. Heard Sri Ch.Janardhan Reddy, learned counsel for the appellant and Sri Anand Kumar Kapoor, learned counsel appearing on behalf of respondent No.1-bank.

3. **Brief Facts of the case:**

3.1 Respondents Nos.4 and 5 have availed the loan of Rs.53,36,000/- in the year 2000 from respondent No.1 bank and they have committed default. Respondent No.1-bank filed O.P.No.104 of 2011 praying to pass award and judgment against respondents therein jointly and severally to pay an amount of Rs.5,09,71,279/- together with interest and other reliefs and the same was decreed *exparte* on 19.08.2013. Pursuant to the said decree,

respondent No.1-bank filed E.P.No.33 of 2013. Thereafter, the Execution Court ordered notice and after receiving the notice, appellant filed W.P.No.4329 of 2014 and the same was dismissed on 18.02.2014. Aggrieved by the said order, the appellant filed intra court Appeal in W.A.No.224 of 2014 and the same was dismissed as withdrawn on 28.02.2014. Thereafter, the appellant herein filed application I.A.No.84 of 2014, on 20.03.2014, under Order IX Rule 13 of Code of Civil Procedure, 1908('CPC' for brevity) seeking to set aside the *ex parte* decree/award dated 19.08.2013, along with condone delay application of 45 days and the said application was allowed on 09.11.2016. Subsequently, respondent No.1-bank filed application I.A.No.83 of 2019 in O.P.No.104 of 2011, seeking permission to receive the Registered General Power of Attorney bearing Document No.1004/IV/1993, dated 16.06.1993 and the same was dismissed on 01.10.2019. Thereafter, respondent No.1-bank filed another application I.A.No.150 of 2019 in O.P.No.104 of 2011 to receive the very same document and the said application was also dismissed on 29.11.2019. Aggrieved

by the same, respondent No.1-bank filed W.P.No.2240 of 2024.

3.2. Appellant herein has filed I.A.No.94 of 2019 in O.P.No.104 of 2011 seeking to reject the evidence affidavit filed on 08.05.2019 by respondent No.1-bank and the same was allowed on 29.11.2019. Aggrieved by the said orders, respondent No.1-bank filed W.P.No.2228 of 2020. Learned Single Judge clubbed both the writ petitions and passed the common order without considering contentions of the appellant in W.P.No.2240 of 2020. Aggrieved by the same, the appellant preferred these appeals.

4. **Contentions of learned counsel for the appellant:**

4.1 Learned counsel for the appellant contended that the application filed by respondent No.1-bank i.e., I.A.No.83 of 2019 seeking to file Registered General Power of Attorney bearing Document No.1004/IV/1993, dated 16.06.1993 was dismissed on 01.10.2019 and the said order has become final. Without questioning the said order, respondent No.1 filed another application I.A.No.150 of 2019 seeking same relief and the same was also dismissed by the Tribunal.

4.2. He further contended that learned Single Judge without taking into consideration of the above said fact, allowed both the writ petitions and passed the impugned order dated 03.05.2024, which is contrary to law. He further contended that the judgment **Aziz Ahmed Khan Vs. I.A.Patel¹**, relied by the learned Single Judge is also not applicable to the facts and circumstances of the case. In view of the same, the common order passed in W.P.Nos.2228 and 2240 of 2020 is liable to be set aside.

5. **Contentions of learned counsel for respondent**

No.1- Bank:

5.1. *Per contra*, learned counsel appearing on behalf of respondent No.1-bank submits that learned Single Judge after taking into consideration of the contentions of respective parties and principle laid down by the High Court of Andhra Pradesh, at Hyderabad in **Aziz Ahmed Khan** (supra), rightly allowed the writ petitions and there is no illegality or perversity in impugned order passed by learned Single Judge.

¹ AIR 1974 AP 1(FB)

6. **Analysis of the case:**

6.1 Having considered the rival submissions made by respective parties and after perusal of the material available on record, it reveals that respondent No.1-bank filed application I.A.No.83 of 2019 to receive the Registered General Power of Attorney bearing Document No.1004/IV/1993, dated 16.06.1993 and mark the same on behalf of respondent No.1-bank and the said application was dismissed by the Tribunal by its order dated 01.10.2019, though the Tribunal dismissed the said application on the ground that learned counsel for respondent No.5 absented even after giving sufficient time to produce the Registered GPA. Subsequently, respondent No.1 bank filed another application I.A.No.150 of 2019 seeking same relief and the same was dismissed by the Tribunal. Aggrieved by the same, respondent No.1-bank filed W.P.No.2240 of 2024. Appellant herein has filed I.A.No.94 of 2019 in O.P.No.104 of 2011 seeking to reject the evidence affidavit and the same was allowed on 29.11.2019. Aggrieved by the said orders, respondent No.1-bank filed W.P.No.2228 of 2020. Learned Single Judge while allowing the writ petitions passed the

common order without considering the contentions of the appellant in W.P.No.2240 of 2020 as to whether the application I.A.No.150 of 2019 is maintainable under law in view of dismissal of the earlier application i.e., I.A.No.83 of 2019 and the same is liable to be set aside and the matters are required to be remitted.

7. For the foregoing reasons, the impugned common order dated 03.05.2024, passed by the learned Single Judge is set aside and the matter is remitted back to learned Single Judge with a direction to dispose of both the writ petitions as expeditiously as possible.

8. With the above directions, writ appeals are disposed of accordingly. No costs.

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

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SD/- B. SATYAVATHI
DEPUTY REGISTRAR

SECTION OFFICER

To,

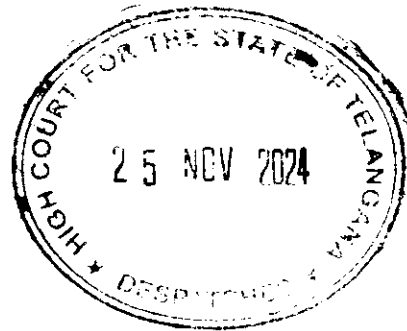
1. The Liquidator, Prudential Cooperative Bank Ltd, Rashtrapathi Road, Secunderabad.
2. The Secretary, Department of Co-operative, State of Telangana, Hyderabad.
3. The Chairman, A.P. Cooperative Tribunal, At MJ Market, Nampally, Hyderabad.
4. One CC to SRI CH.JANARDHAN REDDY, Advocate. [OPUC]
5. One CC to SRI ANAND KUMAR KAPOOR, Advocate. [OPUC]
6. Two CCs to GP FOR COOPERATION, High Court for the State of Telangana at Hyderabad. [OUT]
7. Two CD Copies.

BSK
GJP



HIGH COURT

DATED:12/08/2024



COMMON JUDGMENT

WA.Nos.889 & 915 of 2024

**DISPOSING OF THE WRIT APPEALS
WITHOUT COSTS**

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10/11/2024