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**Green Dot Agencies and ors. Vs. Deputy Registrar of Co-operative Societies Divisional Co-operative Officer, Golgonda Division and anr.**

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**SooperKanoon Citation :** [sooperkanoon.com/441394](http://sooperkanoon.com/441394)

**Court :** Andhra Pradesh

**Decided On :** Aug-29-2007

**Reported in :** 2008(1)ALD130; 2007(6)ALT423

**Judge :** G. Yethirajulu, J.

**Acts :** Andhra Pradesh Cooperative Societies Act, 1964 - Sections 71(1); Andhra Pradesh Co-operative Societies Rules, 1964 - Rule 50(3)

**Appeal No. :** C.R.P. No. 3634 of 2004

**Appellant :** Green Dot Agencies and ors.

**Respondent :** Deputy Registrar of Co-operative Societies Divisional Co-operative Officer, Golgonda Division and an

**Advocate for Def. :** None

**Advocate for Pet/Ap. :** K. Gopala Krishna Murty, Adv.

**Disposition :** Petition allowed

**Judgement :**

ORDER

## **G. Yethirajulu, J.**

1. This Revision Petition is filed by the defendants in Certificate No. 46/03/G, dated 31-03-2004 on the file of the Deputy Registrar of Co-operative Societies, Golconda Division, Hyderabad, contending that the Certificate issued under Section 71(1) of the A.P. Cooperative Societies Act, 1964, (for short 'the Act') to the Applicant Bank, without conducting any enquiry and without service of summons and without giving any opportunity to the petitioners is not valid under law and is liable to be cancelled.

2. For recovery of debts, the procedure was prescribed under Section 71(1) of the Act, which reads as follows:

71. Recovery of debts:

(1) Notwithstanding anything in this Act or in any other law for the time being in force and without prejudice to any other mode of recovery which is being taken or may be taken the Registrar may on the application made by a society or financing bank or federal society as the case may be, for the recovery of arrears of any sum advanced to any of its members and on furnishing a statement of accounts in respect of the arrears and after making such inquiry as he deems fit, issue a Certificate for the recovery of the amount stated therein to be due as arrears.

According to the above provision, whenever an Application is made by the bank or society for recovery of arrears of the debt due to it, it shall furnish the statement of accounts showing the arrears and after making such enquiry, the necessary Certificate has to be issued for recovery of the amount. But the learned Counsel for the petitioners contends that no such enquiry has been conducted by the Deputy Registrar of Cooperative Societies and no notices were served on the petitioners before issuing the said Certificate.

3. It is mentioned in the certificate that the summons were sent to the petitioners by Certificate of posting and as they did not make their appearance, the Certificate has been issued by setting them ex parte.

4. The learned Counsel for the petitioners further submitted that under Rule 50(3)(c) of the A.P. Co-operative Societies Rules, 1964 (for short 'the Rules'), the Deputy Registrar is supposed to send the summons by registered post. As the summons were sent only by certificate of posting and as there is no proof of service of the summons on the petitioners and as they did not receive any summons, they could not make their appearance on 09-12-2003. Without verification whether the summons were served or not, the Deputy Registrar passed the order on 31-03-2004 issuing the Certificate under Section 71(1) of the Act, therefore, the Certificate is liable to be cancelled.

5. Rule 50(3) of the Rules prescribes the modes of service of summons, which reads thus:

50. Mode of service of summons:

(1) ...

(2) ...

(3) The service of summons under the Act, on any person may be effected in any of the following ways:

(a) By giving or tendering it to such person; or

(b) If such person is not found, by leaving it at his last known place of abode or business or by giving or tendering it to some adult member of his family; or

(c) If the address of such persons is known to the Registrar or other authorized person by sending it to him by registered post; or

(d) If none of the means aforesaid is available by affixing it in some conspicuous part of his last known place of abode or business.

Under Rule 50(3)(c) of the Rules, it is mentioned that the address of debtor is known to the Registrar or other authorized person, he must send the summons through registered post.

6. The addresses are available with the Deputy Registrar and they are mentioned in the Certificate, therefore, there shall not be any problem for the Deputy Registrar to send the summons to the petitioners through registered post with acknowledgment due and if there is any proof that they received the summons and failed to appear before him, he is at liberty to pass appropriate orders according to law. But, since there is no record to show that the summons were served on the petitioners, it amounts to denial of opportunity to participate in the enquiry prescribed under Section 71(1) of the Act. In the light of the above circumstances, the Certificate issued by the Deputy Registrar of Co-operative Societies, without conducting any enquiry, is not valid, therefore, it is liable to be cancelled.

7. In the result, the Civil Revision Petition is allowed. The Certificate issued by the Deputy Registrar of Co-operative Societies on 31-03-2004 is cancelled. The matter is remitted back to the Deputy Registrar of Cooperative Societies, Golconda Division, Hyderabad, directing to restore the Application of the bank to its original file, serve summons on the petitioners-debtors through as per the modes prescribed under Rule 50(3) of the Rules and after satisfying that there is sufficient service of summons to the petitioners, give opportunity to both parties to participate in the enquiry and after that only, the Deputy Registrar shall pass appropriate orders either issuing the Certificate under Section 71(1) of the Act or refusing to issue such Certificate if there is material to show that no amount is due to the bank.