

(1989) 08 KAR CK 0018
In the Karnataka High Court
Case No : W.P. No. 4711/1985

Balaraju

APPELLANT

Vs

Munaiah and Others

RESPONDENT

Date of Decision : 16-08-1989

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Constitution of India, 1950 — Article 226
Karnataka Co-operative Societies Act, 1959 — Section 70

Citation : (1989) 3 KarLJ 350

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

Chandrakantharaj Urs, J.-The petitioner is an employee of Heggadahalli Halu Utpadakara Sahakara Sangha Niyamitha. He was employed as examiner of Milk. On certain charges of misconduct, the Secretary of the Co-operative Society (which is not a party to this writ petition) was dismissed. The said Secretary was none other than the 3rd respondent herein. Janardhana, the dismissed Secretary raised a dispute under Section 70 of the Karnataka Co-operative Societies Act, 1959 (hereinafter referred to as the Act) in Dispute No. 26/1982-83 before the Assistant Registrar of Co-operative Societies, Doddaballapur Sub-Division, Doddaballapur, Bangalore District. In the said dispute, the Arbitrator held against the dismissed Secretary. Thereupon, he filed Appeal No. 481/1984 before the Karnataka Appellate Tribunal, Bangalore (hereinafter referred to as the Tribunal). In the meanwhile, the petitioner-Balaraju who was the milk examiner, was at first, appointed temporarily to officiate as Secretary of the Heggadahalli Milk Producers Co-operative Society Ltd. and later on confirmed as Secretary of the Co-operative Society. At that point of time, he made an application before the Tribunal in Appeal No. 481/1984 under Order 1 Rule 10(2) of the C.P.C. seeking to implead himself as a necessary party. That application came to be dismissed by an order of the Tribunal dated 21st January, 1985. Thereafter, a joint memo appears to have been filed in the said appeal before the Tribunal by which the dispute was compromised and Janardhana the appellant before the Tribunal was in terms of the compromise reinstated as Secretary of the Co-operative Society.

2. In the meanwhile, on 19th January, 1985 in another dispute raised by a member of the aforementioned Co-operative Society, Muneyya, the President of the Co-operative Society and four others were restrained from functioning as directors on the Board of Management in Dispute No. 268/1985 on the file of the Assistant Registrar of Co-operative Societies, Doddaballapur Sub-Division, Doddaballapur. In other words, in the light of the argument advanced for the petitioner, it is useful to notice here that the restraint order was passed two days before I.A.No. 3 filed before the Tribunal was rejected. It is reasonable to assume that I.A.No.3 was filed some time before it was dismissed. Therefore, on the date I.A.No. 3 was presented, this Court must proceed on the assumption that there is no restraint order on the president and four others as evidenced by Annexure-A. I.A.No. 3 in Appeal No. 4817/1984 on the file of the Tribunal came to be dismissed on the ground, inter alia, that there was no lis between the applicant-Balaraju the petitioner herein and the dispute raised in regard to the removal of Janardhana from the post of Secretary. Therefore, the compromise memo dated 22-1-1985 which restored Janardhana as Secretary, the petitioner, claims has affected him and therefore he has presented this writ petition seeking the following relief.

(1) To quash the order of the Tribunal dated 21-1-1985 rejecting his application under Order 1 Rule 10(2) of the C.P.C. as well as the order passed on the joint memo of compromise resulting in the reinstatement of Janardhana, 3rd respondent, as Secretary of the Co-operative Society in question.

He has also asked for quashing of certain resolutions passed by the Co-operatives Society which I may straight-away reject as not tenable for the reasons that the Co-operative Society is not a Party to this proceeding and also this Court has no jurisdiction to interfere with the Management of the Co-operative Society which is not a local authority or other authority as defined under Art. 12 of the Constitution, and as such, this Court cannot exercise its jurisdiction against the Co-operative Society under Art. 226 of the Constitution, to quash any resolution passed by it concerning its internal management nor issue a mandamus asking it to reinstate the petitioner as Secretary which, undoubtedly, is part of its internal management.

3. Therefore, what remains for consideration by this Court is whether the reliefs asked for quashing the order rejecting I.A.No. 3 under Order 1 Rule 10(2) of the C.P.C. to implead himself as a necessary party and the order made on the joint memo of compromise reinstating the 3rd respondent, should be quashed.

4. The argument advanced is that the petitioner was a necessary party as his position as permanent Secretary would be affected if Janardhana succeeded in the appeal and therefore he should have been impleaded. It was also urged in this behalf that had he been impleaded, he would have brought to the notice of the Court that the President-Muneyya had ceased to have effective powers of his President-ship in view of the order passed in the other dispute where there was restraint order against him passed on 19-1-1985.

5. It is well settled that under Order 1 Rule 10 of the C.P.C, only necessary and proper parties may be added on the direction of the Court or on the application made to it by persons claiming to be necessary or proper parties. Dispute was between the Co-operative Society and Janardhana, the 3rd respondent, in regard to his removal. If he succeed in the dispute by operation of law, he is bound to be reinstated in service merely because the management or the employer has employed some one in his place in the interregnum does not give any standing or status to the new incumbent in the office to create a list between him and the dismissed former employee. Therefore, the view taken by the Tribunal that he is not a necessary party is the correct view in law and Annexure-B, the impugned order on I.A.No. 3, does not call for interference.

6. The remaining question is that if he is not a necessary party to adjudicate the appeal before the Tribunal, he certainly cannot question the competence of the Tribunal to pass an order on the joint memo of compromise at Annexure-C. Even otherwise, the argument that the incompetence of the President to enter into a compromise would have been brought to the notice of the Tribunal does not carry much weight because that argument has been made only after coming to know of the order passed on 19-1-1985 after the application for impleading was made. Therefore, having regard to all the circumstances of the case, the petitioner had no locus standi or reason to challenge the orders because law must taken its course. If the 3rd respondent has succeeded in resolving the dispute in his favour, consequences must necessarily follow. The petitioner was appointed as permanent Secretary, must therefore, as a consequence, revert to his original position as milk examiner.

7. Even otherwise, if he has any dispute with the management for reverting him to his original position, he can only raise that dispute under Section 70 of the Act and not come to this Court under Art. 226 of the Constitution.

8. For the above reasons, this petition is misconceived and it is dismissed. In the circumstances of the case, there will be no order as to costs.