

(2012) 01 KAR CK 0306

In the Karnataka High Court

Case No : Writ Petition No. 10534 of 2011 (CS-RES) and Miscellaneous Writ No"s. 3965 and 5364 of 2011

C.S. Kumar

APPELLANT

Vs

State of Karnataka Department of Co-Operation M.S.
Building, Ambedkar Veedi Bangalore-560001 and Others

RESPONDENT

Date of Decision : 12-01-2012

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Karnataka Co-operative Societies Act, 1959 — Section 64, 70

Citation : (2012) ILR (Kar) 1034

Hon'ble Judges : H.G. Ramesh, J

Bench : Single Bench

Advocate : Jayakumar S. Patil, for M/s Bannur Associates, for the Appellant; K. Krishna, AGA for R1-4 and R6 and Sri B.K. Manjunath, Advocate of R5, for the Respondent

Final Decision : Dismissed

Judgement

H.G. Ramesh, J.—By consent of the learned counsel for the parties, the writ petition is heard on merits and is being disposed of by this order. In this writ petition, the petitioner, who is a former Branch Manager of the Honnalli branch of the Davangere District Central Co-operative Bank Ltd. and who is presently under suspension, is challenging the order dated 25.01.2011 passed by respondent No. 3 in exercise of the power u/s 64 of the Karnataka Co-operative Societies Act, 1959 ("the Act" for short). By the impugned order, respondent No. 3 has appointed respondent No. 6 as an Enquiry Officer to hold an enquiry relating to the alleged mis-appropriation of money amounting to several crores of rupees in the Honnalli branch of respondent No. 5 - DCC Bank, Davanagere.

2. I have heard Sri Jayakumar S.Patil, learned Senior Counsel appearing for the petitioner and Sri B.K.Manjunath, learned counsel appearing for respondent No. 5-DCC Bank and the learned Additional Government Advocate for the other official respondents.

3. The sole contention urged by the learned Senior Counsel appearing for the petitioner is that the impugned order directing holding of an enquiry insofar as it relates to the allegations against the petitioner is unsustainable in law as respondent No. 5 - DCC Bank has already raised a dispute against the petitioner u/s 70 of the Act as could be seen from the memorandum of dispute dated 12.01.2011 which is produced as an Annexure to the writ petition. By referring to the said memorandum, he submitted that respondent No. 5 - DCC Bank has raised a dispute against the petitioner u/s 70 of the Act for recovery of Rupees Twelve Crores fifty lakhs and ninety nine thousand with future interest @ 18% p.a. from 1.1.2011. He contended that parallel proceedings under Sections 64 & 70 of the Act will prejudice the petitioner.

4. The contention is without substance as there is no legal bar to hold an enquiry u/s 64 of the Act during the pendency of a dispute u/s 70 of the Act relating to any of the matters directed to be enquired into u/s 64 of the Act. In my opinion, the proceedings under sections 64 & 70 of the Act can't be said to be parallel proceedings as the nature and purpose of both the enquiries are different. Accordingly, I find no legal infirmity in the impugned order to warrant interference under the extraordinary jurisdiction of this Court under Articles 226 & 227 of the Constitution of India. The writ petition is accordingly dismissed. In view of dismissal of the writ petition, the interlocutory applications in Misc.W.No.3965/2011, Misc.W.No.5364/2011, IA.No.6/2011, IA.No.1/2012 and IA.No.2/2012 do not survive for consideration and are accordingly dismissed.