

(1999) 11 KAR CK 0014
In the Karnataka High Court
Case No : Writ Petition No. 21461 of 1999

D.L. Nagarja

APPELLANT

Vs

Kolar District Co-operative Societies Union Limited, Kolar and
others

RESPONDENT

Date of Decision : 30-11-1999

Acts Referred:

Hindu Succession Act, 1956 — Section 14

Karnataka Co-operative Societies Act, 1959 — Section 18 (2), 2 (f), 2 (o), 21 (2) (a)

Citation : AIR 2000 Kar 190 : (2000) ILR (Kar) 1185 : (2000) 3 KarLJ 259

Hon'ble Judges : Chidananda Ullal, J

Bench : Single Bench

Advocate : Sri S. Raju, for the Appellant; Sri M.N. Ramanjaneya Gowda, A.G.A.,
for the Respondent

Judgement

1. The petitioner being the member in the respondent 1-Co-operative Union had filed the instant writ petition to quash the communication dated 6-8-1999 in No. RSR;106:XMC:98-99 issued by the respondent 2 addressed to all the Co-operative Divisions in the State, copy as at Annexure-B to writ petition, in issuance of which, the said authority had clarified the provision in Section 21(2) (a) of the Co-operative Societies Act (hereinafter referred to as the "Act") to the effect that the elected Committee members of the Society may nominate the member of the Society of the elected body of the Committee of management of the Society to represent another Society in the affairs of other Society.

2. The petitioner had further prayed for quashing of the consequential resolution dated 15-5-1999 passed by the respondent 1-Co-operative Union, copy as at Annexure-A to writ petition, in passing whereof, the Committee of the respondent 1 had nominated one of its ordinary members to represent it in the Co-operative federation.

3. The petitioner herein is represented by the learned Counsel, Sri S. Raju, whereas the respondent 2-Registrar of Co-operative Societies is represented by

the learned Additional Government Advocate, Sri M.N. Ramanjaneya Gowda. The notices to the respondents 1 and 3 had been dispensed with.

4. The learned Counsel for the petitioner, Sri Raju had taken me through the communication dated 6-8-1999 issued by the respondent 2. It was his submission that the same was totally in negation of the provision in Section 21(2) (a) of the Act. While taking me through Section 21(2)(a) of the Act, it was argued by him that, it is very clear from the said provision that it is one of the members of the Committee of management of a Society who has to be nominated to represent the Society in another Society of which former was a member. In this context, he had also taken me through the provision in Section 21(2)(a) of the earlier Act, wherein it is provided that a Co-operative Society shall appoint one of its members to vote on its behalf in the affairs of another Society of which former was a member. It was also pointed out by him that if the provision in the original Act were to be read along with the provision in the Act as amended, it is clear therefrom that all that what came to be replaced was the words "a Committee of a Co-operative Society" in place of "a Co-operative Society". Therefore, according to him, there is no confusion whatsoever to be clarified by the respondent 2 as he did in the impugned communication, copy as at Annexure-B to writ petition.

5. Therefore, he prayed that the said clarification be quashed. He further prayed that pursuant to the resolution by the respondent 1-Union that came to be passed in tune with the clarification also has to be quashed.

6. Before proceeding further, I feel it appropriate to quote the disputed communication dated 6-8-1999, copy as at Annexure-B to writ petition. The same reads as hereunder:

7. The learned Additional Government Advocate on the other side argued that the word "a Co-operative Society" as it occurred in the beginning of the provision in Section 21(2)(a) of the original Act came to be replaced only to authorise the duly constituted Committee members of the Society to nominate one of the members of the Society to represent it in a member-Society. It was also pointed out by him that as per the original provision in the Act, it was a Society which had to nominate one of its members to the member-Society and that obviously meant convening of the general body of the Society and passing a resolution in the said general body just to make such a nomination. He further submitted that the said process was long drawn as the notices to all its members had to be sent with heavy cost and long lapse of time. Therefore, he submitted that the amendment came to be made to authorise a duly elected Committee of the Society to nominate one of the Society's members to represent it in the member-Society. It was also argued by him that sub-section (3) of Section 21 of the Act as well be adverted to in this context, wherein it was also provided therein that, if once the Committee of management nominates a member to represent it in the member-Society, the same cannot be changed unless a resolution is passed in the general body of the meeting by a majority of the members present and

voting in such a meeting. According to him, the said provision was made in the amended Act only to avoid the withdrawal of the nomination once made by the Committee members at its whims and fancies. Incidentally, he had also drawn my attention to Section 2(o) of the Act wherein, the term "member" is defined. While taking me through the same, it was submitted by Sri Ramanjaneya Gowda that the term "member" has to be understood as it appeared in the provision in Section 21(2)(a) of the Act.

8. Therefore, according to him, the respondent 2 had rightly clarified that position by addressing the communication to all the Joint Registrars of Co-operative Societies in the State. While referring to para (1) of the said communication, it was also pointed out by him that the clarification came to be issued by the said Authority as the same was sought for from different quarters.

9. To sum up his argument, the learned Additional Government Advocate submitted that the impugned clarification, copy as at Annexure-B to writ petition and further pursuant resolution passed by the respondent 1, copy as at Annexure-A to writ petition, are not called for to be interfered with by this Court in the instant writ petition,

10. In reply, Sri Raju had adverted to Section 2(f) in the matter of definition of term "member" and Section 18 of the Act wherein the provision had been made in respect of admission of the nominal and associated members. In doing that he had also submitted that the word "member" defined u/s 2(f) of the Act also includes a nominal as well as associated members and that Section 18(2) and (3) of the Act made it clear that nominal or associate member cannot become an office bearer. I have to point out here that that would not improve matters as the term "member" had been defined in Section 2(f) of the Act to include the nominal and associated members. That is how I see things.

11. In the light of the above submissions made, now the sole point that arises for my consideration is: whether the term "member" referred to in Section 21(2)(a) of the Act is referable to the ordinary member of a Society or a member of the elected Committee of management of a Society.

12. In this connection, I feel it appropriate to quote the provisions in Section 21(2)(a) of the Act earlier to amendment and subsequent to the amendment of the Act, the same read as hereunder:

As it appeared earlier to amendment:

"A Co-operative Society which is a member of another Co-operative Society may, subject to any rules made under this Act, appoint one of its members to vote on its behalf in the affairs of that other Society".

As it appeared after the amended Act:

"The Committee of a Co-operative Society which is a member of another Co-operative Society may appoint one of its members to vote on its behalf in the

affairs of that other Society.

13. As pointed out by the learned Counsel for the petitioner, one can see, the words in the beginning of Section 21(2)(a) of the original Act, "a Co-operative Society" came to be replaced by the word "Committee of Co-operative Society" in the amended Act and rest of the wordings in the said provision in the original Act virtually maintained in the amended provision, but sub-section (3) in the section came to be added to by the amendment Act.

14. If we read the provision in Section 21(2)(a) of the amended Act it is true that it gives an impression as if the "member" therein is referable to a Committee of Co-operative Society as the section has not been happily worded and that way to some extent it may appear to one that there was some force in the argument of the learned Counsel for the petitioner, Sri Raju that the word "member" referred to therein is referable to the Committee of the Co-operative Society and not the member of the Co-operative Society as such. But, as argued by the learned Additional Government Advocate, Sri Ramanjaneya Gowda, if the term "member" has to be understood as it had been defined u/s 2(f) of the Act, then the same has to be understood as if referable to member of the Society as it has defined therein.

15. The definition of the term "member" u/s 2(f) of the Act reads as hereunder:

" "Member" means a person joining in the application for the registration of a Co-operative Society and a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws and includes a nominal and an associate member".

16. One cannot in this context fail to note that it is not the Committee of a Co-operative Society that can become a member of the other Society but it is only the Society; so when the legislature had referred to "the Committee of a Co-operative Society" to begin with Section 21(2)(a), they actually thereby meant the Co-operative Society and not the elected Committee of the Co-operative Society. This I do "to iron out the creases" to use the terminology of world renowned English Judge, Lord Denning in the matter of interpretation of statute. Let apart it is an elementary rule of construction that no provision of a statute should be construed in isolation but it should be construed with reference to the context and in the light of other provisions of the statute as far as possible to make a consistent enactment of the whole statute, so observed the three Member Bench of the Apex Court in the case of *Vaddeboyina Tulasamma and Others v Vaddeboyina Sesha Reddi (dead)* by L.Rs, while considering the provisions of Section 14 of Hindu Succession Act.

17. Therefore, in my considered view, the term "member" referred to in Section 21(2)(a) of the Act is referable to only the general member as it had been defined in Section 2(f) of the Act and not to the member of the Committee of Management of the Society. This necessarily includes an elected member of the Committee also as he is obviously also a primary member of the Society. If that

is borne in mind, I do not think, the petitioner herein can in any way complain as against the clarification communication dated 6-8-1999 sent to all the Joint Registrars of Co-operative Societies in the State by the respondent 2-Registrar of Co-operative Societies, copy as at Annexure-B to writ petition. However, I have to observe here that Section 21(2)(a) of the Act had not been well worded to say that it is the general or primary member of the Society who has to be nominated by the Committee members of the Society. Therefore, it appears to me that it is in fitness of things that the Registrar of Co-operative Societies, the respondent 2 herein may better move the Government to get Section 21(2)(a) of the Act amended to give true meaning thereof to that intendment. This I feel a necessity as the provision in question is vulnerable to more than one interpretation which is in fact led for the Registrar of Co-operative Societies to issue the clarification in communication dated 6-8-1999, copy as at Annexure-B to writ petition.

18. In that view of the matter, I do not find any merit in the instant writ petition.

19. The writ petition therefore fails and accordingly stands dismissed.

20. The Registry is directed to forward a copy of the order herein passed to the Registrar of Co-operative Societies, the respondent 2 herein in view of certain observations came to be made by the Court in para 17, supra.