

(1974) 06 MAD CK 0009
In the Madras High Court

K. Vasudeva Ayyangar

APPELLANT

Vs

Sri Ranganatha Co-operative Stores Ltd.

RESPONDENT

Date of Decision : 20-06-1974

Acts Referred:

Tamil Nadu Co-operative Societies Act, 1961 — Section 71(1)

Citation : (1975) 1 MLJ 158

Hon'ble Judges : M.M. Ismail, J

Bench : Single Bench

Judgement

M.M. Ismail, J.—The question involved in this petition is the construction of the first proviso to Section 71(1) of the Tamil Nadu Co-

operative Societies Act, (Tamil Nadu Act LIII of 1961). Section 71(1) provides for surcharging any person who is or was entrusted with the

organisation or management of the society or any past or present officer or servant of the society when it appears that he has misappropriated or

fraudulently retained any money or other property or been guilty of breach of trust in relation to the society or has caused any deficiency in the

assets of the society by breach of trust or wilful negligence or has made any payment contrary to the Act or the Rules or the bye-laws. The sub-

section says that the Registrar himself, or any person specially authorised in this behalf, of his own motion or on the application of the committee,

liquidator or any creditor or contributory may inquire into the conduct of such person or officer or servant and make an order requiring him to

repay or restore the money or property or any part thereof with interest. The first proviso says that no such inquiry shall be held after the expiry of

six years from the date of any act or omission referred to in the sub-section. The petitioner, one of the directors of the Co-operative Society,

contends that under the proviso the enquiry must be completed before the expiry of six years from the date of the Act or the omission referred to.

However, the Registrar and the District Judge on appeal, have taken the view that the limitation is only for the purpose of institution or

commencement of the enquiry and not for the actual holding of the enquiry. In my opinion, that conclusion is correct. As I pointed out already, the

enquiry can be held by the Registrar either suo moto or on the application of the committee, liquidator or any creditor or contributory. Therefore, if

a creditor or a liquidator or contributory has set the machinery in motion, within the period of six years and thereafter the Registrar had not

disposed of the matter and kept it pending, such person who moved the Registrar ought not to suffer for the inaction or procrastination on the part

of the Registrar. It is one of the recognised maxims of law that no delay on the part of the Court shall prejudicially affect the rights of the parties

before the Court, and therefore the acceptance of the contention put forward on behalf of the petitioner will lead to the consequence of the rights of

the parties being defeated or prejudiced by the delay on the part of the Registrar who has been asked to enquire into the matter. The Registrar

under the section acts judicially or at least quasi-judicially.

2. Every expression occurring in a statute will take its colour from the context in which it occurs. The expression "no such inquiry shall be held

occurring in the proviso in the present case will only mean that no such inquiry shall be instituted or constituted and will not mean that no such

inquiry shall be conducted or completed. If that were the intention of the Legislature, different words would have been used. An enquiry has

several stages commencing from its initiation or institution and ending with the passing of final orders. In my view, the period of limitation provided

for in the proviso is not intended to cover all these stages, some of which may consume time or involve delay as a result of the dilatory tactics of the

parties or because of causes over which neither the Registrar nor the parties before him have any control. Having regard to these circumstances, I

am of the opinion that the conclusion of the Court below is correct and the proviso has to be construed as imposing a period of limitation only with

regard to the initiation or institution of the enquiry and having nothing to do with the subsequent conduct or completion of the enquiry.

Consequently, the petition is dismissed.