
(1994) 12 MP CK 0018
In the Madhya Pradesh High Court
Case No : Civil Rev. No. 305 of 1993

Kisan Sahakari Sheetgrah Evam Vary Factory Ltd.	APPELLANT
Vs	
R.C. Gupta and Another	RESPONDENT

Date of Decision : 05-12-1994

Acts Referred:

Arbitration Act, 1940 — Section 20

Citation : (1994) ILR (MP) 475 : (1995) JLJ 568 : (1995) 1 MPJR 195 : (1995) 40 MPLJ 616 : (1995) MPLJ 616

Hon'ble Judges : I.P. Rao, J

Bench : Single Bench

Advocate : Sharad Verma, for the Appellant; S.C. Jain, for the Respondent

Final Decision : Allowed

Judgement

I.P. Rao, J.

This revision is filed by defendant No. 1 against the order of the learned III Additional Distt. Judge, Sagar in Civil Suit No. 44-A/1991, holding that he has jurisdiction to try the civil suit, which was filed by the non-applicant No. 1 herein claiming damages for breach of contract.

The learned counsel for the applicant argued that for construction of a cold storage, the tender of the non-applicant No. 1/plaintiff was accepted on 15-1-1981; that because of the lethargic attitude of the plaintiff and breach of contract, the applicant/first defendant was constrained to rescind work and that without exhausting the remedy of arbitration provided under clause 29 of the agreement entered into between the plaintiff and the first defendant, the plaintiff has rushed to the civil court.

The learned counsel further argued that the learned Additional District Judge, Sagar by the impugned order dated 15-3-1993 has assumed jurisdiction in a civil suit, which is barred by Section 64 of M. P. Co-operative Societies Act, 1960 (hereinafter referred to as the Act) and that order is, therefore, liable to be set

aside. In support of his contention, he relied upon the decision of the Supreme Court reported in *Keshava v. Mandal Co-op. M. S.* 1970 MPLJ 770, holding that a claim before the civil court is not maintainable as it concerns a dispute touching the business of the society.

The learned counsel for the non-applicant No. 1/plaintiff argued that the contract between the parties related to the construction of cold storage; that the dispute between the parties does not relate to the business of the society and that for attracting Section 64(1)(c) of the Act, plurality of transactions is necessary and a single transaction is not enough. The learned counsel, basing on the decision of this Court in *Kundansing v. State of M. P.* 1979 MPLJ 203, argued that plurality of transactions is a sine qua non for attracting provisions of Section 64(1)(c) of the Act.

The words "touching the constitution, management or business of a society" have no bearing on the words "business by a co-operative society". The scope of the expression "any dispute touching a business of a co-operative society" is wider than that of the expression "any dispute as regard the business of a co-operative society". As held by the Supreme Court in *Deccan Merchants Co-operative Bank Ltd. Vs. Dalichand Jugraj Jain and Others*, the word "touching" is very wide and would include any matter which relates to or concerns the business of a society. The first defendant is a co-operative society formed by the farmers for upliftment of their conditions through the process of co-operative movements. Therefore, it cannot be said that the construction of a cold storage does not touch the business of the society. When there is admittedly a dispute between the plaintiff and the defendants with regard to the cold storage, it certainly amounts to a dispute touching the business of the society for which Section 64(1) is applicable.

The objection raised by the learned counsel for the non-applicant No. 1 is that under Clause 29 of the agreement admittedly entered into between the parties, there is an arbitration clause and it is only the civil court u/s 20 of the Arbitration Act that can have jurisdiction to appoint an arbitrator. The agreement entered into between the parties, clause 29 of which provides for an arbitration clause is not disputed. But, on that score, it is not necessary that the plaintiff can seek the relief only before a civil court. The Supreme Court in *Thakur Jugal Kishore Sinha Vs. Sitamarhi Central Co-operative Bank Ltd. and Another*, held that the Registrar under the Co-operative Societies Act, to all intents and purposes, is a Court discharging the same functions and duties in the same manner as a Court of law is expected to do. Therefore, the word "Court" used in Section 20 of the Arbitration Act includes a Registrar discharging his duties under the Act. The decision of the Supreme Court, referred to above, is followed by a Division Bench of our High Court in *K. G. Ansari v. S. P. Agarwal* 1989 MPLJ 36, holding that the Deputy Registrar of Co-operative Societies is a Court. I, therefore, hold that the submission made by the learned counsel for the plaintiff that it is only the Civil Court that has got jurisdiction to refer the matter to the arbitrator is not correct.

As held by the Supreme Court and this Court, the Registrar discharges his functions as a Court, and, therefore, the provisions u/s 20 of the Arbitration Act can be invoked even by the Registrar.

The revision is, therefore, allowed, setting aside the order dated 15-3-1993 passed by III Additional District Judge, Sagar in Civil Suit No. 44-A/1991 and directing that the plaint should be returned to the plaintiff for presentation before the competent authority, namely, the Registrar of Co-operative Societies. No costs.