

**(1971) 07 KAR CK 0017**

**In the Karnataka High Court**

**Case No : Writ Petition No. 1389 of 1967**

Krishnaraja Wadayar Co-operative Society Ltd.

APPELLANT

Vs

Ratnam Gopalaswamy Iyengar and Another

RESPONDENT

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**Date of Decision : 13-07-1971**

**Acts Referred:**

Mysore Co-operative Societies Act, 1948 — Section 70

Mysore Co-operative Societies Rules, 1952 — Rule 31, 31 (2)

**Citation : AIR 1972 Kar 117 : (1971) 2 MysLJ 455**

**Hon'ble Judges : A. Narayana Pai, C.J.; M.S. Nesargi, J**

**Bench : Division Bench**

**Advocate : B.G. Sridharan, for the Appellant; M.A. Gopalaswamy Iyengar and K.S. Puttaswamy, High Court Govt. Pleader for A.G., for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

Narayana Pai, C.J.—The petitioner is a Co-operative Society and in praying for the quashing of an order made by the Mysore Co-operative Appellate Tribunal, the principal question raised is one of limitation under Rule 31 of the Co-operative Societies Rules. As the appellate Tribunal has rejected the petitioner's (Society's) claim against the respondent on the ground that the same is barred by limitation under the said rule, the Society contends that that rule to the extent it is against its claim in this case is ultra vires and invalid and should therefore be struck down.

2. The respondent who was an officer or an employee of the society was sought to be proceeded against u/s 70 of the Co-operative Societies Act for recovery of a sum of Rs. 1092-87 being the value of the sugar found short in the society's stock during the period he was in charge of the sugar section. The period during which the respondent was in charge of the sugar section was from 25-10-1959 to 16-11-1961. The act or omission of the respondent regarding shortage took place some time during that period. The dispute was filed before the Registrar on the 18th of May 1964 i, e.. more than two years after the act or omission

resulting in the shortage.

3. Sub-rule (2) of Rule 31 prescribed a period of six years from the date of cause of action for the institution of any dispute u/s 70 of the Act. Two provisos are appended thereto. Under the first of it. a dispute between the society, or its committee, and any past committee, any past officers, past agent, or past employees etc. should be referred to the Registrar within two years from the date on which the act or omission with reference to which the dispute arose, took place. The second proviso prescribes a limitation of 30 days from the date of declaration of the result of an election (for" making a reference of a dispute in relation to the election.

4. On the language of the rule, there can be no doubt whatever that the Co-operative Appellate Tribunal was right in holding that the petitioner's claim was barred by limitation under the first proviso. Hence the argument that the said proviso should be struck down either as ultra vires or at any rate as being so unreasonable as to bring about a defeat of the object of the statute.

5. The argument of incompetency, in our opinion, is wholly unsustainable. The rule is made in exercise of the power conferred on the State Government by Section 129 of the Act, according to which the Government is empowered to make rules to carry out the purposes of the Act. Sub-section (2) sets out that in particular and without prejudice to the generality of the power conferred by the first sub-section, such rules may provide for all or any of the matters mentioned under sub-section. Clause (z) enumerates one of the topics of the rules to be procedure to be followed in proceeding before the Registrar, arbitrator or other person deciding disputes.

6. It is undisputed and indisputable that the law of limitation is part of the law of procedure. If any authorities are necessary, it is enough to refer to the ruling of the Supreme Court in C. Beepathumma and Others Vs. V.S. Kadambolithaya and Others, where their Lordships observe "there is no doubt that the law of limitation is a procedural law and the provisions existing on the date of the suit apply to it."

7. The next argument in support of the case of the alleged incompetency is that the provision of two years of limitation under the first proviso involves discrimination, violative of Article 14 of the Constitution.

8. In the first place, it is too late in the day to contend that by providing different periods of limitation for different remedies in respect of different causes of action an infraction of the 14th Article of the Constitution is brought about. Indeed, such is not the argument addressed either by Mr. Sridharan for the petitioner in this case or Mr. Vasudeva Reddy in Writ Petition No. 1470 of 1971. the admission whereof awaits the disposal of this case.

9. But the argument strongly pressed by Mr. Vasudeva Reddy is that whereas in the case of ordinary individuals and in the case of other incorporated bodies like

companies under the Indian Companies Act. the normal period for recovery of debts or other dues is three years, the provision made under the rule now in question for a shorter period must be regarded as involving discrimination, violative of Article 14 of the Constitution. This again is impossible of acceptance, because there is a clear classification between individuals and companies on the one hand and Cooperative Societies on the other. With a view to provide for better and speedier disposal of disputes, separate provision is made u/s 70 of the Co-operative Societies Act for dispute being referred to the Registrar and adjudicated upon by an arbitrator appointed by him. Mr. Reddy had to concede that such a provision was intended for relieving the adjudication of disputes in Co-operative Societies from the burden of what is described as the elaborate procedure governing ordinary litigation in civil courts. That very concession involves the further concession that freedom from elaborate details of procedure is conferred upon this special type of disputes with a view to save time. If so, the prescription of a shorter period of limitation is quite in consonance with that object and cannot to any extent be said to involve any impediment to the achievement of the said object.

10. The alternative argument is that the rule is not workable and may in some circumstances bring about injustice. The argument in this regard is that it may take more than two years for the society to acquire knowledge of the act or omission on the part of the other side and that therefore before the society comes to know of it, its cause of action may get destroyed by limitation.

11. Now, this matter has to be examined from the point of view of normal state of affairs. In the case of organised societies, like the Co-operative Societies, there can be no doubt that the governing body and the officers are charged with the duty of efficient administration of their affairs. Efficiency of such administration is expected to be maintained by frequent supervision, internal audit, etc.. Section 63 of the Co-operative Societies Act further requires that the registrar should get the accounts of societies audited at least once a year.

12. In these circumstances. if things proceed normally, there can be no doubt that any cause of action will come to the knowledge of persons in charge of the affairs of the Society in such time as to enable the society to make a reference in respect of any dispute arising from any act or omission on the part of its servants or committee or any past committee, any past officer, etc., within a period of two years mentioned in the first proviso to Sub-rule (2) of Rule 31 of the Co-operative Societies Rules.

13. When such is the clear inference available from normal circumstances or the normal state of affairs, it is impossible to accept the argument that the proviso will reduce matters into absurdity if we do not read into it some words so as to make the starting point coincide with the acquisition of knowledge of the act or omission on the part of the authorities of the society. When read as it stands, it is perfectly practicable and is in consonance with the state of affairs which the statute itself expects to prevail in normal circumstances. To read

further words into the rule would be opposed to all known canons of interpretation.

14. We hold therefore that the first proviso to Sub-rule (2) of Rule 31 is not open to attack of either invalidity or impracticability.

15. Upon facts, it is unnecessary to interfere with the opinion of the Appellate Tribunal that the Society has failed to prove its case.

16. The Writ Petition is therefore, dismissed.