

(1988) 01 DEL CK 0047
In the Delhi High Court
Case No : Writ Petition No. 254 of 1986

Manufacturers Coop. Ind. Est.

APPELLANT

Vs

Lt. Governor, etc.

RESPONDENT

Date of Decision : 07-01-1988

Acts Referred:

Citation : (1988) RLR 218

Hon'ble Judges : Yogeshwar Dayal, C.J.;Gian Chand Jain, J

Bench : Division Bench

Advocate : Jagdish Singh, Ajay Goel, S.P. Kaira and Y.R. Sharma, for the Appellant;

Judgement

Yogeshwar Dayal, C.J.

(1) ONE Narinder Nath D. Puri was member of petitioner Co-op. Society. He died on 24.3.1970. Thereafter his son, Man Mohan Nath N. Puri wanted to be substituted in place of the deceased father. Claim was based, inter-alia, on the ground. that he was nominee of his father. The fact that Man Mohan Nath N. Puri was nominee of his father is not disputed.

(2) Since the Society was not willing to give benefit of the nomination, Man Mohan Nath N. Puri made an application in March, 1976 before the Registrar of Co-op. Societies, Delhi, challenging the decision of the petitioner society of returning the dues of his father to him and treating him as an expelled member. The Registrar found that it is a dispute which falls within S. 60 of Delhi Co-op. Societies Act, 1972 and accordingly vide order dt. 28.11.1978 directed that the dispute is liable to be referred u/s 60 of the Act and referred it to an arbitrator u/s 61(1)(c) of the Act. The Registrar also passed interim order that till the pendency of the dispute the plot No. J-3 shall not be transferred or registered in the name of any other person by the Society.

(3) The Society thereafter filed an appeal before the Delhi Co-operative Tribunal. Tribunal, who is also Financial Commissioner (respondent No. 4) held that no

appeal was competent u/s 76 of the Act against an order merely referring the dispute to an arbitrator. S. 76(1) reads

"76.(1) Subject to the provisions of S. 77 an appeal shall lie under this section against : (a).....(h)..... (i) any decision or award made u/s 61."

(4) It may be noticed that whatever decision or order is made appealable is specifically made by reference to the Act. Ss. 60 and 61 are :

"60.(1) Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management or the business of a cooperative society other than a dispute regarding disciplinary action taken by the society or its committee against a paid employee of the society arises- (a) among members, past members and persons claiming through members, past members and deceased members, or (b).....(c).....(d) such disputes shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute."

"61.(1) The Registrar may, on receipt of the reference of dispute u/s 60- (a) decide the dispute himself, or (b) transfer it for disposal to any person who has been invested by the Lieutenant Governor with powers in that behalf, or (c) refer it for disposal to one arbitrator ; (2).....(3) The Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interest of justice."

(5) It will be clear from reading of S. 60 of the Act that the type of disputes which are liable to be referred to Registrar for decision are mentioned in clauses (a) to (d) of S. 60(1) of the Act. The operative part of S. 60 also says that such disputes shall be referred to the Registrar. It is, thus, clear that reference itself is made u/s 60(1) of the Act. What is to be done, once reference is made, is provided in S. 61 of the Act. It provides three modes for dealing with such reference. First mode is that the Registrar on receipt of reference may himself give decision on the merits of the dispute. Second is that it can be transferred for disposal to any person who has been vested with such powers by the Lt. Gov. Third is that he may refer it for disposal to an arbitrator. S. 76 of the Act makes a decision of the dispute or award appealable. When the Registrar decides the matter, it is a decision u/s 61(1)(a) of the Act and when the Arbitrator decides it, it is treated as an Award because the person deciding is called "Arbitrator". From a mere order of the Registrar referring the matter to himself or to a nominee, no appeal is provided. That is not the decision contemplated by S. 61 of the Act for the purposes of S. 76 of the Act. The appeal is not provided against a bare order of reference. This is exactly the view taken by the learned Appellate Tribunal and we are in complete agreement with the same. In view of this situation we find no merit.