
(1986) 09 KAR CK 0006
In the Karnataka High Court
Case No : Writ Petition No. 15552 of 1986

Seetharama Rao	Vs	APPELLANT
Karnataka Appellate Tribunal		RESPONDENT

Date of Decision : 08-09-1986

Acts Referred:

Citation : (1987) ILR (Kar) 825

Hon'ble Judges : Chandrakantaraj Urs, J

Bench : Single Bench

Advocate : B.G. Sridharan, for the Appellant; B.G. Somayaji, HCGP, for the Respondent

Final Decision : Allowed

Judgement

Chandrakantaraj Urs, J.—This matter was heard at the stage of preliminary hearing on 21-8-1986. Learned Government Pleader Shri Somayaji was directed to seek instructions and submit. He was also furnished with a copy of the Writ Petition.

2. Petitioner is an employee of the third respondent-Chitradurga House Building Co-operative Society Ltd, Surcharge proceedings u/s 69 of the Karnataka Cooperative Societies Act, 1959 (hereinafter referred to as the Act) have been initiated against him and they are pending before the Assistant Registrar of Co-operative Societies, Chitradurga Sub-Division, Chitradurga. By an order dated 5th May 1984, the second respondent dismissed a dispute raised by the third respondent directing the third respondent to make appropriate application to initiate surcharge proceedings as a result of which the Society as now initiated surcharge proceedings through the Registrar. In that circumstance the petitioner applied to the Assistant Registrar, the second respondent herein, to grant him certified copies of the order-sheet of the surcharge proceedings. That came to be rejected for the reason that the matter was pending before the second respondent and therefore his request for grant of certified copy of the order-sheet could not be considered. Aggrieved by the said order, a true copy of which

is enclosed as per Annexure-B to the Writ Petition, the petitioner preferred a revision petition to the Karnataka Appellate Tribunal, Bangalore u/s 107 of the Act, The Tribunal-first respondent herein, without going into the merits of the case, rejected the revision on the ground that a revision was not maintainable. Aggrieved by the same, the present Petition has been filed under Articles 226 & 227 of the Constitution praying for quashing the order of the Tribunal and for a Writ of mandamus to direct the second respondent-the Assistant Registrar of Co-operative Societies to supply certified copies of the audit report, ledger extract, bye-laws and the order-sheet of the surcharge proceedings so as to enable him to file his objections and then proceed with the case on merits.

3. Shri Sridharan, learned Counsel for the petitioner contends that the order passed by any Assistant Registrar or other officers subordinate to the Tribunal is subject to the revisional jurisdiction of the Tribunal if such an order is not an appealable order. There is some force in the contention. A proceeding, in which an application for grant of certified copy of the order-sheet and other documents if any is made, which visits the delinquent official of the co-operative Society with Civil consequences would be a quasi-judicial proceeding and in such quasi-judicial proceeding, the Assistant Registrar cannot, on the ground that the matter is pending, decline to grant certified copy of the order-sheet. Every party in civil or criminal Courts is entitled to the copies of the order-sheet maintained by the Court at all stages of the case with which the Court is seized. Therefore, declining to grant certified copy amounts to failure to exercise jurisdiction vested in the Assistant Registrar, the second respondent herein. Such an order was clearly an order which can be revised under the Act. The Tribunal shall not fail to exercise jurisdiction on the ground that refusing to grant certified copy is an administrative order. The object of revisional jurisdiction is to see that justice is done to the parties and not to refuse to exercise on some legal theories which really have no proper basis for propounding such legal theories. In these days of highly complicated modern administration and the growth of administrative law, it is very difficult to draw a clear line as to what constitutes a judicial order and what constitutes a quasi-judicial order. It is more appropriate on the safer side by holding in favour of the administrative order being a quasi-judicial order which invariably does justice than to shut out parties from getting benefit of a fair procedure where certified copies of documents on which the entire charge rests are refused. Therefore, the Tribunal ought to have taken a very liberal view of the matter and entertained the revision. Not having done that, the order is liable to be quashed.

4. Accordingly, the order of the Assistant Registrar of Co-operative Societies and that of the Appellate Tribunal which are at Annexures B and Care quashed as being without any authority of law and contrary to law. A Writ of mandamus shall also issue to the second respondent to grant such documents which would enable the petitioner to offer proper defence in the surcharge proceedings against him, on an application made by him. This order is made without notice to the second and third respondents having regard to the fact that the Learned Government

Pleader had been directed to take notice earlier. I do not consider that the third respondent the Co-operative Society is in any way adversely affected by the order made. Therefore, notice to third respondent is dispensed with in the interests of justice. Writ Petition is therefore allowed. Rule is accordingly issued and made absolute.