

(2010) 12 KAR CK 0133

In the Karnataka High Court

Case No : Misc. W. No. 10742 of 2010 in Writ Petition No. 33652 of 2010

Sri Narayanagowda and Sri S.P. Ramesh

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 03-12-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10

Karnataka Co-operative Societies Act, 1959 — Section 98 N (i) (iii) (c) (f)

Citation : (2010) 12 KAR CK 0133

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : Subramanya Jois, for Sri K.C. Shanthakumar and Sri S.B. Mukkannappa and A/S, for the Appellant; Smt. M.C. Nagashree, HCGP, for the Respondent

Judgement

S. Abdul Nazeer, J.—Sri S.P. Prakash has filed this application under Order 1 Rule 10 of the CPC requesting this Court to implead him as an additional Respondent. In support of the application, he has filed an affidavit stating that the Petitioner is one of the elected Directors of Bangalore Rural and Ramanagar District Co-operative Central Bank Limited, Bangalore. When he was the Chairman of the adhoc committee of the Bank as well as the President of the Bank, he has caused wrongful loss of Rs. 971.18 lakhs to the Bank corresponding wrongful gain to himself and others. The Registrar of Co-operative Societies has accorded sanction to prosecute him and others. The matter was referred to the CBI by the State Government and the CBI after investigation has filed charge sheet against the Petitioner. The Petitioner is still continuing to be the President of the Bank, which is against the interest of the Bank. In this connection, he has filed Public Interest Litigation ("PIL" for short) in W.P. No. 3945/2010, which is pending. The Petitioner is stalling the proceedings initiated against him by instituting cases before the Courts. Therefore, he wants to come on record with a view to safeguard the interest of the Bank.

2. The Petitioner has filed objections to the application. It is contended that the

applicant is neither a necessary nor a proper party to the proceedings. He is not the member of the Bank. He has challenged the validity of Section 98-N(i)(iii)(c) (f) of the Karnataka Co-operative Societies Act, 1959 as inserted by Act No. 6/2010 in this petition. He has no role to play in the proceedings particularly when the validity of a statutory provision is under challenge. The intention of the applicant is to impede the progress of the writ petition in the guise of getting impleaded as the Respondent.

3. Learned Counsel for the applicant submits that several criminal cases have been filed against the Petitioner for misappropriation of funds of the Bank. In order to stall the proceedings, he has filed the writ petition. The applicant has filed a PII. before this Court to disqualify the Petitioner as the member of the managing committee of the Bank. Since he has caused wrongful loss of more than Rs. 971.18 lakhs to the Bank, he cannot continue as the President of the Bank. He may drag on the matter for one reason or the other. In order to assist the Court, the applicant may be permitted to come on record as an additional Respondent.

4. Learned Senior Counsel appearing for the Petitioner submits that the Petitioner has challenged the validity of Section 98-N(i)(iii)(c)(f) of the Act in this petition. The applicant is neither a necessary nor a proper party to the proceedings. He is not even the member of the Bank.

5. I have carefully considered the arguments of the learned Counsnel made at the Bar and perused the materials placed on record.

6. Admittedly, the applicant is not a member of the Bank. The Us is purely between the Petitioner and the State. The applicant has filed a PIL against the Petitioner for his disqualification from holding the office of the Director of the Bank or to continue him as a member. He can pursue the said PIL filed. However, he is neither a necessary nor a proper party to this proceeding. Therefore, the application-Misc.W. No. 10742/2010 is rejected. No costs