

(1967) 10 KAR CK 0002

In the Karnataka High Court

Case No : Criminal Revision Petition No. 1399 of 1965

Surathkal Co-operative Town Bank Ltd.

APPELLANT

Vs

Padmanabhayya (E.) and Another

RESPONDENT

Date of Decision : 06-10-1967

Acts Referred:

Mysore Co-operative Societies Act, 1948 — Section 118, 70, 70 (1)

Citation : (1968) 2 LLJ 313 : (1967) 2 MysLJ 503

Hon'ble Judges : A. Narayana Pai, J

Bench : Single Bench

Judgement

1. Respondent 1 in this petition, E. Padmanabhayya, was member of and later worked as an appraiser under the petitioner-bank, Surathkal Co-operative Town Bank, Ltd. As a member he had made a deposit of Rs. 1,000 with the petitioner-bank. When he was appointed as an appraiser, that deposit was, by mutual agreement, converted into a fidelity deposit in connexion with his employment as appraiser.

2. On account of alleged mismanagement of the affairs of the petitioner-bank, the board of directors was superseded and the management entrusted by the Registrar of Co-operative Societies. The administrator, in the course of steps taken by him to rectify defects in the management of the affairs of the bank, terminated the services of the respondent Padmanabhayya and also forfeited the above security deposit of Rs. 1,000.

3. Padmanabhayya, thereupon, filed before the Munsif of Mangalore Original Suit No. 346 of 1963 for a declaration of the invalidity or illegality of the order of the administrator and for a decree directing the repayment of the sum of Rs. 1,000 (being the amount of the forfeited deposit) with interest and other consequential reliefs.

4. The bank is a co-operative society within the meaning of the Mysore Co-operative Societies Act of 1959. On entering appearance, it raised the plea that

the dispute which is the subject-matter of the suit was a dispute within the meaning of S. 70 of the Act and that therefore the exclusive jurisdiction of adjudicating on it vested in the Registrar of Co-operative Societies and that the jurisdiction of civil courts in regard thereto was barred by S. 118 of the Act.

5. The Munsif raised an issue on this matter and tried the same as a preliminary issue. He upheld the contention of the society and returned the plaint for presentation to proper authority. Upon appeal by the plaintiff Padmanabhayya, the Civil Judge, Mangalore, has taken a different view. He holds that the dispute is a dispute relating exclusively to control or discipline of an employee of the society and not a dispute touching the business of a co-operative society, and that; therefore, the facts did not attract the operation of Ss. 70 and 118 of the Mysore Co-operative Societies Act.

6. This view of the civil Judge is challenged as incorrect in this revision petition and it is contended that because the existence or otherwise of jurisdiction in civil Courts to deal with this matter itself depends upon the correctness or otherwise of the view taken by the civil Judge, the case is a fit one for interference by this Court under S. 115, Civil Procedure Code.

7. The relevant portion of Sub-section (1) of S. 70 of the Mysore Co-operative Societies Act, 1959, reads :

"70(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 co-operative society arises -

(a) * * * (b) * * *

(c) between the society or its committee and any past committee, any officer, agent or employee, or any past officer past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased employee of the society ..."

8. In *Hukkeri Urban Co-operative Bank v. Mira Sahib* (1963) M(1963) sLJ 294, a case decided by a Division Bench of this Court, the essential tests to be applied in cases of this nature are indicated. The Bench was dealing with S. 54(1) of the Bombay Co-operative Societies Act which in material particulars is to the same effect as S. 70 of the Mysore Co-operative Societies Act. Their lordships pointed out that the two tests are that the dispute must arise between the persons mentioned in the section and the dispute must touch the constitution or business of the society.

9. Now, in the present case, there is no doubt about the fact that the parties to this dispute are the co-operative society on the one hand and an ex-employee thereof on the other and that both the parties answer the description of the disputants as enumerated in Clause (c) of Sub-section (i) of S. 70 of the Act. The only question is whether the dispute brought before the Court is a dispute which can be said to be or can be rightly described as a dispute touching either the

constitution or the business or the management of the society.

10. The trial Court took the view that this dispute was one which can rightly be described as a dispute touching the business of the society. It is on this essential point that the civil Judge took a different view. He followed the ruling of Govinda Menon, J., in *The Tanjore Co-operative Marketing Federation Ltd. Vs. R. Krithivasan*, and held that the dispute which relates to discipline or control of an employee is not a dispute which can be described as a dispute touching the business of the society.

11. The view taken by Govinda Menon, J., in the above case certainly supports the decision of the civil Judge. But in more cases than one, both in the Madras High Court and the Bombay High Court, the rather restricted view taken in the said case was not accepted. So far as the Madras High Court is concerned, the matter was concluded by a ruling of Full Bench in *M.S. Madhava Rao and Others Vs. D.V.K. Surya Rao, Member of the Pithapuram Co-operative Bank, Pithapuram and Others*, . The representative decision in the Bombay High Court is that of Chagla, J., in *Great Indian Peninsular Railway Employees' Co-operative Bank, Ltd. v. Bhikaji Marwanji Karanjia* AIR 1948 Bom. 341.

12. As I am in complete agreement with the view expressed by the Madras Full Bench and Chagla, J., of the Bombay High Court, it is not necessary for me to discuss the matter at any length. In both the cases the view taken is that it is not correct to give a restricted or limited meaning to the expression "touching the business" and that to do so would indeed result in defeating one of the essential purposes of the Act. As pointed out by Chagla, J., one need not think that business of the society is nothing more than the objects set out in its memorandum. Even if those objects are, as they have to be, regarded as describing the ultimate objects with which the society functions, even the steps taken for the achievement of those objects do come within ambit of the expression "touching the business." It is pointed out both by Chagla, J., and the Madras Full Bench that the word "touching" has a much wider connotation than the expression "directly related" or "directly arising out of." If for the purposes of carrying on business certain subsidiary activities have to be undertaken, it cannot be said that such activities do not touch the business of the society. Speaking broadly, if a reasonable or logical relationship between a matter in question and the business can be pointed out, it will not be wrong to describe the said matter as a matter touching the business. The business of this society was banking business. It was obviously necessary for it to employ persons to attend to the various items of banking business. Appraising of jewellery or other valuable articles pledged to the bank for loans advanced by it, is undoubtedly an activity essential for the proper carrying on of the business of the banking. Hence, the employment of an appraiser would certainly be a matter quite essential for the carrying on of business. The terms of his employment and conditions of his service would also enter into consideration from the point of view of not only efficient but also economic working of the banking business.

13. It would follow, therefore, that the very limited or restricted view taken by the civil Judge is not a view which can be upheld either as correct or as one free from the attack of its being calculated to defeat one of the objectives of the statute. One of those important objectives is to provide for settlement of disputes which may be broadly described as domestic disputes by domestic tribunals created under the statute. It is no doubt true that civil Courts being Courts of general jurisdiction a limitation on the taking away of such jurisdiction in any given matter should not be readily inferred but should be clearly established by explicit provisions of the relevant statute. But that does not mean that in interpreting the statute in question one should necessarily make an attempt to abridge its operation or out down or modify its objectives with a view to give effect to the abovementioned rule of interpretation.

14. I, therefore, set aside the order of the civil Judge and restore that of the Munsif.

15. The parties will bear their own costs in this revision petition.