

(2005) 06 KAR CK 0010
In the Karnataka High Court
Case No : Writ Appeal No. 3025 of 2004

T. Venkatesh

APPELLANT

Vs

The Karnataka Appellate Tribunal and Others

RESPONDENT

Date of Decision : 29-06-2005

Acts Referred:

Karnataka Co-operative Societies Act, 1959 — Section 70

Citation : (2005) 3 KCCR 1903

Hon'ble Judges : H.N. Nagamohan Das, J;H.L. Dattu, J

Bench : Division Bench

Advocate : S.P. Kulkarni, for the Appellant;

Final Decision : Dismissed

Judgement

H.L. Dattu, J.—Appellant was a member of the third Respondent- M/s. Kirloskar Electric Company Employees Housing Society Limited ("Society" for short). An allegation was made against him, that he had misappropriated certain funds of the Society. To discharge the alleged misappropriated amount, the Appellant and his sister had executed a mortgage deed in favour of the society.

2. The Appellant and his sister, Smt. Susheela, who is a non- member of the Society, had raised a joint dispute u/s 70 of the Karnataka Co-operative Societies Act ("the Act" for short) before the competent authority under the Act to declare that the equitable mortgage deed dated 4.9.1995 executed by the Appellant and his sister in favour of the third Respondent -Society as null and void, since the said deed was executed by them under coercion, pressure, and etc. The competent authority under the Act, firstly, has not accepted those allegations and assertions made by the Appellant and his sister and secondly, since the sister of the Appellant is a non-member of the Society, they could not have raised a joint dispute u/s 70 of the Act. Accordingly, has rejected the dispute. Aggrieved by the said order, the Appellant had carried the matter in an appeal before the Karnataka Appellate Tribunal in Appeal No. 94 of 1999. The Tribunal has rejected the appeal on two grounds, firstly, that the Appellant along with his

sister could not have raised a dispute before the competent authority under the Act for the reason, the Appellant's sister is not a member of the Society, and secondly, that the Appellant has failed to prove, that there was any pressure or coercion by the Society on the Appellant and his sister to execute a equitable mortgage deed in favour of the Society. Aggrieved by the said order, Appellant was before this Court in W.P. No. 32611 of 2001. This Court by its order dated 25.5.2004 has rejected the writ petition, on the ground that the dispute raised by the Appellant along with his sister was not maintainable before the competent authority under the provisions of the Act. To come to that conclusion, the learned Single Judge has relied on the observations made by this Court in the case of Tulianasa Narayanasa v. SSK Co-operative Bank Limited 1972 (1) Mys. L.J. 365, wherein this Court has observed, that, the exclusion of the Civil Court's jurisdiction under the Act is limited by Section 70 of the Act, which shows that a dispute to which one of the parties is not a member of any Co-operative Society, cannot be brought within the scope of Section 70 of the Act or be submitted for adjudication to the Special Authorities under the statute.

3. To resolve the controversy in this appeal, provisions of Section 70 of the Act requires to be noticed. It is as under:

70. Disputes which may be referred to Registrar for decision: (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) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society,

or

(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 agent, or deceased employee of the society, or

(d) between the society and any other co-operative society (or a credit agency)

such dispute shall be referred to the Registrar for decision, and (no Court or Labour or Revenue Court or Industrial Tribunal) shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute.

4. The Co-operative Societies Act makes a special provision for adjudication of dispute touching the constitution, management or business of a Co-operative Society registered under the Act, arising among or between the parties enumerated in Clauses (a), (b) (c) and of Sub-section (1) of Section 70 of the

Act. Under this provision, a member of a society may raise a dispute before the Registrar of Co-operative Societies for adjudication and decision. A non-member of the Society, impliedly is excluded from raising a dispute before the Registrar for adjudication of any dispute with the Society.

5. In the present case, though the Appellant is a member of the Society, his sister is not a member of that Society and Appellant along with his sister, jointly could not have raised a dispute before the competent authority under the provisions of the Act for adjudication and decision. Rightly understanding the true scope of Section 70 of the Act, the competent authority under the Act, the Tribunal and the learned Single Judge have rejected the dispute, appeal and the writ petition, as not maintainable. We do not find any error or lacuna in the order passed by the learned Single Judge. Therefore, interference with the said order is not called for. Accordingly, the appeal stands rejected. Ordered according.