

(2013) 04 KAR CK 0127

In the Karnataka High Court

Case No : Writ Petition No's. 14576, 14577 and 14579 of 2013 (CS-RES)

The Executive Director, KPTC Employees Co-operative Society Ltd

APPELLANT

Vs

The Joint Registrar of Co-operative Societies, Bangalore Division and Smt. G. Manjula
 The Executive Director, KPTC Employees Co-operative Society Ltd Vs The Joint Registrar of Co-operative Societies, Bangalore Division and Y.S. Girijamba
 The Executive Director, KPTC Employees Co-operative Society Ltd Vs The Joint Registrar of Co-operative Societies, Bangalore Division and Smt. T.S. Jalajamma

RESPONDENT

Date of Decision : 05-04-2013

Acts Referred:

Karnataka Co-operative Societies Act, 1959 — Section 70, 70(1), 70(2), 70(2)(a), 70(2)(e)

Citation : (2013) 4 AKR 49 : (2013) ILR (Kar) 2701 : (2013) 3 KCCR 2345 : (2013) 5 LLN 598

Hon'ble Judges : Ashok B. Hinchigeri, J

Bench : Single Bench

Advocate : Jayakumar S. Patil, for Sri K. Srikanth Patil, for the Appellant; K.A. Ariga, HCGP for R1 in W.P. Nos. 14576, 14577, 14578, 14579, 14580, 14581, 14582, 14583, 14584, 14585, 14587, 14588, 14589, 14590, 14591, 14592, 14593, 14594 and 14595/2013 and Sri B.S. Nagaraj, Advocate for R2 in W.P. Nos. 14576, 14577, 14578, 14579, 14580, 14581, 14582, 14583, 14584, 14585, 14587, 14588, 14589 and 14591/2013 and Sri G.F. Hunasikathimath, Advocate for Sri M.S. Rudraiah, Advocates for R2 in W.P. Nos. 14590, 14591, 14592, 14593, 14594 and 14595/2013, for the Respondent

Final Decision : Dismissed

Judgement

Ashok B. Hinchigeri, J.—All these petitions are clubbed, heard together and are being disposed of by this common order, as they involve similar questions of law and facts. The facts of the case in brief are that the second respondents in all the petitions are the members of the petitioner Co-operative Society. The petitioner

Co-operative Society allotted the sites and subsequently executed the registered sale deeds in their favour. Their grievance is that though the sale value is only Rs. 5,00,000/- as shown in the instrument (sale deed), a sum of about Rs. 8,50,000/- (different amounts from the different members) is collected from them. Some of them also have the grievance that from the similarly placed members of the petitioner Society, what is collected is only Rs. 1,80,000/- towards the full sale consideration. Seeking the refund of excess sale consideration with interest, they raised the dispute before the first respondent invoking Section 70 of the Karnataka Co-operative Societies Act, 1959. In the said dispute proceedings, the petitioner Society raised the issue of maintainability. The petitioner Society contended that the allegations and averments in the memorandum of the dispute do not touch upon the constitution, management and business of the petitioner Society. The issues raised by them can only be adjudicated in a competent civil court. On the first respondent overruling the preliminary objections and holding that the dispute is maintainable, these petitions are filed.

2. Sri Jayakumar S. Patil, the learned Senior Counsel appearing for Sri K. Srikanth Patil for the petitioner submits that the second respondents cannot maintain the suit against the petitioner co-operative Society for the recovery of the amounts which the second respondents claim to have paid in excess. He submits that second respondents' grievances, if any, are to be ventilated only before a civil court. He submits that Section 70(1) of the Karnataka Co-operative Societies Act, 1959 ("the said Act" for short) deals with the parties to the disputes, whereas Section 70(2) of the said Act deals with what a dispute is. Section 70(2) enumerates the categories of the cases in respect of which the disputes can be raised. He read out the said provisions, which are extracted hereinbelow:

70(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, namely-

- (a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;
- (b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor, as a result of the default of the principal debtor whether such debt or demand is admitted or not;
- (c) any dispute arising in connection with the election of a President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or Member of Committee of the society;
- (d) any dispute between a co-operative society and its employees or past employees or heirs or legal representatives of a deceased employee, including a

dispute regarding the terms of employment, working conditions and disciplinary action taken by a co-operative society notwithstanding anything contrary contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947);

(e) a claim by a co-operative society for any deficiency caused in the assets of the co-operative society by a member, past member, deceased member or deceased officer, past agent or deceased agent or by any servant, past servant or deceased servant or by its committee; past or present whether such loss be admitted or not.

3. He relies upon this Court's decision in the case of Scheduled Caste (Harijan) House Building Co-operative Society Limited and Another Vs. State of Karnataka and Others, The relevant portion read out by him is as follows:

A reading of Section 70 of the Act makes it very clear that sub-section (1) of Section 70 deals with the parties to the disputes, whereas, sub-section (2) deals with what a dispute is and sub-section (3) states that if any question arises where a dispute referred to the Registrar under the Section is a dispute or not, the decision thereon of the Registrar shall be final and shall not be called in question in the Court. Therefore, for application of Section 70, firstly the dispute should be between persons who satisfy the requirements mentioned in Section 70(1) of the Act and the dispute should fall within the categories mentioned in Section 70(2) of the Act. A careful reading of Section 70(1) of the Act discloses that the dispute touching the constitution, management or the business of a co-operative society should arise among members, past members and persons claiming through members, past members and deceased members or between the aforesaid category of persons or between the society or its committee and any past committee, any present or past officer, agent or employee or nominees, legal representatives of the deceased officer, agent or employee or between the society and any other co-operative society. Unless a dispute is between the aforesaid category of persons, the Registrar would get no jurisdiction to entertain a dispute u/s 70 of the Act. If it is averred in the dispute that the opposite party is not a member of the society at all, the question whether the opposite party is a member of the society or not cannot be gone into in a dispute u/s 70 of the Act. The principles embodied under Order VII Rule 11 of CPC squarely applies to such a situation. In other words, if the dispute do not disclose the aforesaid jurisdictional aspect, the dispute shall be rejected at the threshold. As it is settled law to find out whether the dispute is maintainable or not what is to be seen is only the averments in the dispute and not the averments in the statement of objections filed by way of defence. Similarly, if the petitioner avers that the respondent is not a member of the society, unless this jurisdictional question or membership is decided first, the Registrar would not get jurisdiction to entertain the dispute. He is not the competent person to decide that issue also. It would be in the nature of declaration of status of the parties. Therefore, a dispute regarding membership of the society is outside the purview of the dispute u/s 70 of the Act.

4. The learned Senior counsel submits that there is no bar in filing the suit in respect of any act touching the constitution, management or business of the co-operative societies. The only pre-requirement for filing the suit is that, two months' notice be given. He read out the provisions contained in Section 125 of the said Act which reads as follows:

125. Notice necessary in suits,- No suit shall be instituted against a co-operative society or any of its officers in respect of any act touching the constitution, management or the business of the society until the expiration of two months next after notice in writing has been delivered to the Registrar, or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

5. Sri K.A. Ariga, the learned Additional Government Advocate appearing for the respondent No. 1 submits that the decision in the case of Scheduled Caste (Harijan) House Building Cooperative Society Limited (supra) has no application for the facts of these cases. He submits that in the said case the issue involved was whether a party was a member of the co-operative society at all. It was held that whether a person is a member of the society or not do not fall within the ambit of Section 70 of the said Act. A dispute regarding membership of the society is outside the purview of the dispute u/s 70 of the said Act. In the instant case, it is not in dispute that the second respondents are the members of the petitioner Society.

6. The learned Additional Government Advocate submits that the issues raised in these petitions are fully covered by this Court's decision in the case of Suresh Zingade Vs. The Managing Director, Karnataka Milk Federation and The General Manager, Karnataka Milk Federation, It is held in the said case that the suit filed by an agent for the recovery of the deposit amount against the society is hit by the bar u/s 70 of the said Act. He read out the following paragraphs of the said decision.

10. The question is as to whether the bar operates or not? There is no dispute that the relationship at the beginning was one of principal and agent as between the defendant-society and the plaintiff. That is necessarily a business connection. The amount sought to be recovered was a security deposit or some other deposit which was made in the context of award of agency is definitely a deposit in the context of the business relationship between the principal and the agent Though the relationship of principal and the agent in itself may also not be termed as a business relationship basically, it is an activity touching upon the business of the society as the agent is employed only for the business of the society. The agent comes into picture in the context of the business of the principal Clause (c) of sub-section (1) of Section 70 of the Act not only includes current agent but also past agent and therefore it makes little difference as to whether the agency had been terminated or not There cannot be any two opinion that independent of sub-section (2) by operation of sub-section (1) of Section 70 of the Act, a suit of the

present nature was not maintainable.

11. In the light of the arguments addressed by the learned counsel for the appellant-plaintiff the next question as to whether the provisions of sub-sections (2) of Section 70 can take out the situation other than those contemplated in subsection (2) from out of the scope of operation of the bar as provided for under sub-section (1) of Section 70 of the Act. A perusal of the contents of subsection (2) indicates that the situations covered by clauses (a) to (e) of this sub-section which are all situations arising in the context of a claim put forth by the society, particularly for recovery (of amount) etc., are all deemed by fiction to be a dispute for the purpose of sub-section (1) of the Act. That means, the situations figure in clauses (a) to (e) of subsection (2) are all fiction of law taken to be situations automatically covered by the bar indicated in sub-section (1). It is so achieved by fiction.

12. It is a common practice and well-understood in legal parlance that a fiction is employed to rope in a situation not otherwise within the contemplation of a particular provision, also to be brought within a particular provision or situation and some times even to take out a situation beyond the scope of any controversy or ambiguity. A proper reading of sub-section (1) and (2) together would actually indicated that the fiction employed in subsection (2) in respect of five situations covered under clauses (a) to (e) is only for the purpose of ensuring that these situations necessarily and inevitably come within the scope of the bar enumerated in sub-section (1) of Section 70 and not that a situation not covered under clauses (a) to (e) or to be taken out of the bar which operates under sub-section (1). It should be noticed that the bar under sub-section (1) regarding Civil Court not having jurisdiction to entertain a suit in respect of a dispute touching upon the aspects and amongst the persons figure in clauses (a) to (d) to sub-section (1) is complete and achieved within sub-section (1) of Section 70 itself and if the object of sub-section (2) was to restrict the scope of operation, the Legislature would not have employed any deemed provision to indicate as to what are the disputes touching upon the constitutional, management or business of a co-operative society by employing a fiction, it could have simple said that the following alone shall be disputes contemplated under the bar for the purpose of sub-section (1). Such is not the language employed. Therefore, the fiction employed in sub-section (2) should be taken to be one to rope in a situation covered under clauses (a) to (e) in sub-section (2) of Section 70 within the bar provided under subsection (1) of Section 70 of the Act and not to leave any ambiguity about it later to exclude as not contemplated in clauses (a) to (e) to subsection (2) of Section 70 of the Act.

13. The Courts below are right in answering the question that the suit for recovery of amount deposited by the plaintiff while he was an agent of the defendant-society is a claim arising in the context of a dispute between the agent and the society and touching upon the business activities of the society and therefore it is clearly hit by the bar provided under sub-section (1) of Section 70

of the Act.

7. Relying on the afore-extracted decision, the learned Additional Government Advocate submits, if an agent can file a suit against a co-operative society, there is no reason why a member cannot file the suit; more so, when Section 70(1)(b) of the said Act clearly provides for the same. The said provisions are extracted hereinbelow:

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).....

(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).....

(d).....

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

8. Sri B.S. Nagaraj, the learned counsel appearing for the second respondents in W.P. Nos. 14576/2013, 14577/2013, 14578/2013, 14580/2013, 14581/2013, 14582/2013, 14583/2013, 14584/2013, 14587/2013, 14588/2013, 14589/2013, 14579/2013 and 14585/2013 submits that as it is not in dispute that the second respondents are the members of the petitioner Society and that the collection of excess amounts from them is touching upon the business of the petitioner Society, the second respondents can maintain the dispute invoking Section 70 of the said Act. In support of his submissions, he read out para 3 of this Court's order, dated 29.08.2005 in W.P. No. 42094/2001 in the case of A.S. Nanjappa vs. The Deputy Registrar of Co-operative Societies and Others. The same is extracted hereinbelow:

3. Admittedly, dispute filed by the petitioner under Sec. 70 of the Karnataka Cooperative Societies Act is in regard to allotment of a site formed by R-2 society for the benefit of the members for which purpose the society has been created by the members of the society. When once the dispute has arisen between the society and its members, touching the constitution, management or business of the co-operative society, a dispute under Sec. 70 of the Co-operative Society Act would be maintainable before the Deputy Registrar of Cooperative Societies. It is not in dispute that business of R-2 Co-operative Society is to acquire the land and form layout and distribute sites to its members. Therefore, the said dispute cannot be said to be outside the purview of Sec. 70 of the Co-operative Societies Act. In the circumstances, this court is of the opinion that the Deputy Registrar of Cooperative Societies has committed an error in dismissing the petition of the

petitioner by holding that the dispute between the petitioner and the society has to be get it adjudicated in a civil court. Therefore, on the short ground, order of the Deputy Registrar as per Annexure - G dated 7.8.1999 has to be quashed. When this court has come to the conclusion that an error has been committed by the Deputy Registrar of Co-operative Society in dismissing the dispute of the petitioner, order passed by KAT in Appeal No. 483/99 as per Annexure -J dated 13.3.2001 is also required to be quashed. Since no evidence is recorded by the Deputy Registrar of Co-operative Societies, matter is required to be remitted back to R-1.

9. He also relies on the Division Bench judgment in the case of J. Diwakar Hegde v. Karkala Taluk Agricultural Produce Co-Operative Society Ltd. reported in (1975) 2 KLJ 390. The relevant portions read out by him are as follows:

5. The Act is a complete code by itself. It has created a special machinery for adjudication of disputes between a Co-operative Society and its members, past members, etc. with regard to matters specified in S. 70 of the Act. In regard to disputes mentioned in S. 70 the jurisdiction of the Civil Court is excluded, and it is the machinery created by the Statute alone that is competent to adjudicate.

10. Sri Nagaraj brings to my notice, the provisions contained in Section 117(3)(d) of the said Act, which are extracted hereinbelow:

117 (3)(d): Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any of such reliefs; but if he omits to claim for all such reliefs, he shall not forward a claim for any relief so omitted, except with the leave of the Registrar or any other person to whom a dispute is referred for decision u/s 70.

11. He submits that the perusal of the afore-extracted provision reveals that any relief can be sought by a member against a co-operative society in the dispute which he raises u/s 70 of the said Act.

12. Sri G.F. Hunasikathimath, the learned counsel appearing for Sri M.S. Rudraiah for the second respondents in W.P. Nos. 14591/2013, 14592/2013, 14593/2013, 14595/2013, 14590/2013 and 14594/2013 submits that even an account-holder can maintain a dispute against a cooperative society and that too for the relief of damages. He relies on this Court's order, dated 14.08.1995 passed in W.P. No. 13477/1995 in the case of The Karnataka State Co-operative Apex Bank Ltd. vs. Additional Registrar of Co-Operative Societies and Another. Its relevant portions read out by him are as follows:

4..... the complaint in issue is short payment, and this difference is described as damages. Hence, this proceeding is perfectly maintainable. The contention of the petitioner that this is not a "dispute" within the meaning of Section 70 of the Act cannot be accepted because all disputes that can be decided by the Civil Court can be adjudicated by the Arbitrator u/s 70 of the Act. I do not find any ground to interfere with the order. Hence the petition is

dismissed.

13. Nextly, he seeks to draw support from this Court's decision in the case of C. Narasegowda vs. H.M.T. Employees House Building Co-Operative Society Limited, Bangalore and Another reported in 1992 (3) KLJ 495. The following portions of the said judgment are relevant for the purpose of this case:

11..... In my opinion, the observation made by the Supreme Court in the said case would not at all apply to the facts of the instant case. It is necessary to point out here that in the instant case the very business of the society is the business of purchase of the property and the business of allotment of the property. In the instant case, the plaintiff has challenged the cancellation of allotment said to have been made in the first instance in his favour and allotment of the same in favour of defendant 2. In my view, it is clear that the dispute now raised by the plaintiff would squarely fall within the compass of a dispute falling under the provisions of Section 70 of the Act. I may point out here that the ratio laid down in the decision of the Division Bench of this Court referred to earlier will apply on all force to this case and it is, therefore, not necessary to dilate on this aspect. It will suffice if it is held that Section 70 would apply to the facts of this case. The learned counsel for the appellant, however, submitted that having regard to the fact that the present suit is one for specific performance and for other reliefs prayed for by the plaintiff, the suit of this nature will have to be filed in the Civil Court only. I do not agree with the submission made by Sri Gangireddy, learned counsel for the appellant. It is necessary to point out here that the powers of the Registrar u/s 70 of the Act are circumscribed by the provisions of the Act. Whenever the dispute touching upon the business of the society arises for consideration that dispute will have to be referred to the Registrar of Co-operative Society. It is necessary to remember that the award passed by the Registrar can be executed in the same manner as a decree of a Civil Court. Under these circumstances, I am not impressed by the submission made by the learned counsel for the appellant that the fact that a suit in question is one for specific performance will make any difference to the issue.

12. For the reasons stated hereinabove, I am of the view that the present suit is barred by the provisions of Section 118 of the Co-operative Societies Act. Once when it is held that the dispute like the one which has presented itself for consideration is a dispute falling under the provisions of Section 70 of the Act, it would follow as a matter of logical corollary that the provisions of Section 118 of the Act would operate as a bar to the Civil Court to decide the same. Incidentally, the suit would attract the provisions of Section 125 of the Act also. Under these circumstances, it is clear that the suit is barred by law, that is to say, by reason of Section 118 r/w Section 70 of the Act. Point No. 1 is answered accordingly.

14. He has also relied on this Court's decision in the case of Murugayya vs. L.B. Pawar and Others reported in 1969 (1) Mys.L.J. 196. He read out the last paragraph of the said decision, which is extracted hereinbelow:

Mr. Joshi next contended that the dispute did not fall within S. 70 of the Co-operative Societies Act But it is clear that this contention is without substance. Under the provisions of S. 70 every dispute touching the constitution or management of the business of a co-operative society between one member and another or between a member and the society could form the subject matter of decision. We do not agree that the matter which the arbitrator had to decide was not one appertaining to the business of the co-operative society; in our opinion, it was. The principal purpose for which the society was formed and established was for the construction of houses for distribution among its members, and, then allotment made by the society was questioned and challenged by the two applicants before the Registrar when they sought arbitration on the ground that the allotment was an improper allotment The dispute related to a matter which appertained to the business of the cooperative society. Moreover the contention that the dispute did not properly fall within S. 70 of the Act was never raised at any stage.

15. According to Sri Hunasikathimath, Section 70(2) does not contain the exhaustive definition of the term "dispute"; the definition is basically of inclusive nature.

16. In the course of rejoinder, Sri Jayakumar S. Patil submits that there appears to be some conflict between the decisions rendered by the two Benches of the co-ordinate jurisdiction; therefore the matter may have to be referred to a larger Bench. He submits that the expression legal fiction" is to be appreciated in proper perspective. He read out the first part of para 39 of the Apex Court's judgment in the case of P. Prabhakaran Vs. P. Jayarajan, which is extracted hereinbelow:

39. An appellate judgment in a criminal case, exonerating the accused-appellant, has the effect of wiping out the conviction as recorded by the Trial Court and the sentence passed thereon - is a legal fiction. While pressing into service a legal fiction it should not be forgotten that legal fictions are created only for some definite purpose and the fiction is to be limited to the purpose for which it was created and should not be extended beyond that legitimate field. A legal fiction presupposes the existence of the state of facts which may not exist and then works out the consequences which flow from that state of facts. Such consequences have got to be worked out only to their logical extent having due regard to the purpose for which the legal fiction has been created. Stretching the consequences beyond what logically flows amounts to an illegitimate extension of the purpose of the legal fiction.....

17. The learned Senior Counsel submits that the categories of the disputes are virtually named by the Legislature, as is evident from the use of the word "namely" at the end of Section 70(2) of the said Act.

18. The submissions of the learned advocates have received my thoughtful consideration.

19. The question that falls for my consideration is whether a member of the co-operative society can maintain a dispute u/s 70 of the said Act for the recovery of certain amounts (the amounts which the second respondent members allegedly claim to have paid in excess of their liability or to put it conversely the amounts which the petitioner co-operative Society is alleged to have collected in excess of its entitlement).

20. The provisions contained in Section 70(2)(b) of the said Act, extracted supra, clearly provide for the raising of a dispute by a member against the co-operative society or its officers or agents. The allotment of the sites by the petitioner Society to the second respondents is in the course of its business. The second respondents allege that though the sale value of the site is only Rs. 5.00 lakhs, the petitioner Society has collected about Rs. 8,58,000/- (different amounts from different members). The further grievance of some of the second respondents is that the petitioner Society has collected only Rs. 1,80,000/- from the other members of the petitioner Society towards the sale consideration of a site. For recovering the amounts stated to have been paid by the second respondents in excess of their liability, whether the suit has to be filed in the civil court or the dispute has to be raised before the Registrar of Co-operative Societies is the controversy in this case, which has to be unravelled.

21. This Court in the case of SURESH (supra) has observed that if the Legislature wanted to restrict the scope of operation of Section 70(2), it could have said that the disputes contemplated u/s 70(2)(a) to (e) alone shall be the disputes for the purposes of 70(1) of the said Act. Therefore, the fiction employed in sub-section (2) in respect of five situations covered under clauses (a) to (e) is only for the purpose of ensuring that these situations necessarily and inevitably come within the scope of the bar enumerated in Section 70(1) of the said Act. The said clauses (a) to (e) are fictive entities of purely legal creation. Therefore, the provision of sub-section (2) do not take the situation from out of the bar contemplated in sub-section (1) of Section 70 of the said Act.

22. This Court in W.P. No. 42094/2001 involving the allotment of a site by a co-operative society has held that the dispute filed by a member invoking Section 70 is maintainable. The Division Bench in the case of Diwakar Hegde (supra) has held that the Co-operative Societies Act is a complete code by itself. When a special machinery is created by a statute for resolving the disputes u/s 70 of the said Act, the civil court's jurisdiction is excluded. In W.P. No. 13477/1995, the dispute between an account-holder (not a member of the bank) and a cooperative society is held to be perfectly maintainable. It is further held therein that all the disputes that can be decided by the civil court can be adjudicated by the Arbitrator u/s 70 of the said Act.

23. In Narasegowda's case (supra), a site allotted to a member was cancelled and the same was re-allotted to another member. The suit for specific performance and declaration was held to be hit by the mischief of Section 70. It was held that the suit is barred by reason of Section 118 r/w. Section 70 of the

said Act.

24. Besides, the allotment of the site to its members is the business of the petitioner co-operative Society. Hence, the dispute relating to the allotment of sites and the matters incidental thereto would come within the compass of the expression "any dispute touching the business of a cooperative society".

25. In the case of Murugayya (*supra*), it is held that a complaint, filed by the two members of the housing society against the society and another member, over the wrongful allotment of the house to that another member, is a dispute falling within Section 70 of the said Act.

26. The petitioner's reliance on this Court's decision in the case of Scheduled Caste (Harijan) House Building Co-Operative Society Limited (*supra*) does not come to its rescue in any way. The said case involved the declaration of the status of the parties and that is why this Court has held that a dispute regarding the membership of the society is outside the purview of the dispute u/s 70 of the said Act. In the instant case, that the second respondents are all the members of the petitioner Cooperative Society is not in dispute at all.

27. In the result, I answer the question by holding that the dispute raised by the second respondents would squarely fall within the compass of the disputes u/s 70 of the said Act. These petitions are dismissed leaving the parties to bear their own costs.