(1989) 06 KAR CK 0052

In the Karnataka High Court

T.S. Renukaradhya APPELLANT

Vs

H.S. Subhash Chandra RESPONDENT

Date of Decision : 27-06-1989

Acts Referred:
Karnataka Co-operative Societies Act, 1959 — Section 17 (1) (c), 29 C (1) (c)

Citation : (1991) 71 CompCas 441

Hon'ble Judges : M.P. Chandrakantaraj, J

Bench : Single Bench

Advocate : Jayakumar S. Patil, for the Appellant; Smt. A. Nimmiswamy, for the Respondent

Judgement

M.P. Chandrakantaraj Urs, J.—The above two petitions are disposed of by the following common order as the facts and question of law are similar. The question of law which falls to be answered in these writ petitions is whether caring on the business of money-lending as licensed under the Karnataka Money-lenders Act amounts to carrying on the business of third respondents-Co-operative Bank Ltd.

2. The facts are that the two petitioners were founder-members of the third respondent-Co-operative Bank Ltd. After becoming members, they also started their own money lending business after obtaining license under the Money-lenders Act. They became partners in different firms which had secured a licence for money-lending business. Both of them contested the office of the directors of the third respondent-Co-operative Bank Ltd. At that point of time, they sought a clarification from the second respondent-Deputy Registrar of Co-operative Societies, Tumkur, as to their eligibility to contest the office. They were informed by him as evidenced by annexure B in W. O. No. 19235 of 1984 that they were eligible Acting on such advice, they contested and became directors. Thereafter, on a complaint made, the Assistant Registrar of Co-operative Societies, Tumkur, first respondent herein, has disqualified them in terms of the provisions contained in section 17(1)(c) as well as section 29C(1)(c) of the Karnataka Co-

operative Societies Act, 1959 (hereinafter refereed to as "the Act"). On appeal, the Deputy Registrar of Co-operative Societies-second respondent has confirmed the order of the Assistant Registrar of Co-operative Societies disqualifying the petitioners from being members of the Co-operative Bank Ltd. as well as holding the officer of the director. Aggrieved by the same, the writ petitions are filed under article 226 of Constitution inter alia, contending that the co-operative bank does the business of money-lending with capital borrowed from outside whereas the firms of which the petitioners are members use the funds of the partners to lend and, therefore, there is difference between the business carried on by the third respondent-Co-operative Bank Ltd. and by the firms of which the two petitioners are members.

3. Mr. Jayakumar S. Patil, learned counsel for the petitioners, has relied upon the definition of "banking" in section 2(a) of the Deposit Insurance and Credit Guarantee Corporation Act, 1961. In the said Act, the word "banking" means accepting for the purpose of lending or investment of deposits of money from the public repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise. The court is informed that similar is the definition of "banking" under the provisions of the Banking Regulation Act. The Act (Co-operative Societies Act) does not define the word "banking" but a co-operative bank is defined and its activity is "banking" as defined under the aforementioned Act from which the definition has been culled out. The Concise Oxford Dictionary gives nouns and verbal sense as also fishing in the sea. "Bank" itself has several meanings one of which is keep bank, trade in money, commercial firm that does some banking ; keep money at bank.

4. From the above, it is clear that "banking" whether legally defined or otherwise, is no more that trading in money in the context of lending. Trade is carried on far the purpose of making profit. some-times it is referred to as business. If undisputedly the firms of which the petitioners are partners carry on business or trade in money then they are doing the something which the third respondent-bank is doing. It does not make any different as to where the capital for lending money comes from as long as the object of the firm is to lend money in order to make profits and carry on business.

5. Therefore, I do not find any error in the conclusions reached by the first and the second respondents in their respective orders which are inconformity with the definition of lending money under the Karnataka Money-leaders Act.

6. The petitions are, therefore, dismissed. But, in the circumstance of the case, there will be no order as to costs.

