

(1961) 07 KL CK 0047
In the High Court Of Kerala
Case No : S.A. No. 953 of 1957

Varghese

APPELLANT

Vs

Krishna Menon

RESPONDENT

Date of Decision : 28-07-1961

Acts Referred:

Travancore-Cochin Co-operative Societies Act, 1951 — Section 60

Citation : (1962) KLJ 43

Hon'ble Judges : T.C. Raghavan, J

Bench : Single Bench

Advocate : T.M. Mahalinga Iyer, for the Appellant; K. Balakrishna Menon, for the Respondent

Final Decision : Dismissed

Judgement

T.C. Raghavan, J.—The second appeal is by the judgment-debtor against the decision in appeal of the learned District Judge, Anjikaimal reversing the decision of the learned District Munsiff of Cochin. The appellant and the respondent were members of the Narakal Coir Co-operative Society Ltd. The appellant was helping the respondent, who was the Secretary, in collecting husks for the Society and on an assessment of the business it was discovered that the Society sustained loss which the respondent had to pay. The respondent paid the amount and thereafter, took the matter before the Registrar of Co-operative Societies. The Registrar gave a decree in favour of the respondent against the appellant. The respondent thereafter sought to execute the decree, when objection was taken by the appellant that the decree could not be executed as the Registrar had no jurisdiction to pass such a decree u/s 60 of the Travancore-Cochin Co-operative Societies Act, X of 1952. This objection was accepted by the learned District Munsiff, but on appeal the learned District Judge reversed the decision and allowed execution to proceed. The second appeal questions the correctness of the decision of the learned District Judge. The sole question for determination in the second appeal is whether u/s 60 of the Travancore-Cochin Co-operative

Societies Act (Act X of 1952) the Registrar of Co-operative Societies has jurisdiction to grant a decree in a case like the present one. The relevant portion of Section 60 lays down that, if any dispute touching the business of a registered Society arises among the members, the Registrar may decide the dispute himself. The argument that appears to have been advanced before both the lower courts and that is still pressed before me is that in this case, since the Co-operative Society had already been paid its dues and the dispute being only between two members of the Society, in which the Society had no interest, the case does not come within Section 60 of the Act. This contention is not warranted in the light of the wording of the section itself. The section lays down that, if any dispute touching the business of a registered Society arises among the members, the Registrar may decide it. The question for consideration is whether in this case the dispute between the appellant and the respondent, who are admittedly members of the Society, is one touching the business of the Co-operative Society. A similar question came up before the Madras High Court under the Madras Co-operative Societies Act in *M. S. Madhava Rao v. D. V. K. Surya Rao* (A. I. R. 1954 Mad. 103) and a Full Bench of the Madras High Court held:

The word "touching" does not present much difficulty, as its dictionary meaning is "in reference or relation to, respecting, regarding or concerning" thus indicating that the disputes need not directly arise out of the business of the society ; but that it is enough that it should have reference or relation to or concern the business of the society. The word "touching" was clearly not intended to restrict the meaning of the word "business"; it was designed to enlarge its scope. The disputes were not to be restricted to matters arising from and out of the business of the society, but were also extended to matters which are in some way concerned or related to the business of the society.

The same question came up for consideration in this Court in *Kochi Pillai Achari Raman Achahri v. Krishnan Achari Paramu Achari* (1957 K. L. T. 362 = 1957 K. L. J. 286) and *Kumara Pillai J.* considering some of the decisions on the question followed the Full Bench decision of the Madras High Court. That case arose u/s 56 of the Travancore Co-operative Societies Act (Act V of 1112), which is similar in terms to Section 60 of Travancore-Cochin Act X of 1952. Therefore, that decision applies to the present case as well. In the present case the dispute was admittedly between two members of the Society and the dispute in some way concerned or related to the business of the Society and so the case presents no difficulty.

2. Hence I accept the principle laid down in the aforesaid two decisions and dismiss the second appeal. In view of the fact that the ruling of this Court was published after the filing of this second appeal I direct the parties to bear their respective costs in the second appeal.