
(1980) 03 KAR CK 0027
In the Karnataka High Court
Case No : WP. 4532/80

Vasantrao Govinda

APPELLANT

Vs

Karnataka Appellate Tribunal and Others

RESPONDENT

Date of Decision : 14-03-1980

Acts Referred:

Karnataka Co-operative Societies Act, 1959 — Section 69

Citation : (1980) 2 KarLJ 106

Hon'ble Judges : Swami, J

Judgement

1. In this petition under Arts, 226 and 227 of the Constitution the petitioner has challenged the correctness of the order passed by the Karnataka Appellate Tribunal at Bangalore is Rev. Petn. No. 21 of 1978. The Tribunal, by the order dated 16-11-1979, has allowed the revision petition and has set aside the order passed by the Arbitrator impleading respondent No. 7 to the dispute. The petitioner is the defendant in the said dispute. He has also raised a contention that the 7th respondent is also a necessary party to the dispute. Similarly, the 3rd respondent also made an application that respondents 6 and 7 may be impleaded as parties to the dispute. The Arbitrator allowed those applications. In the revision filed before the Tribunal against the aforesaid order of the Arbitrator, the Tribunal has set aside the order of the Arbitrator in so far as it related to the impleading of the 7th respondent as a party to the dispute and as far as the impleading of the 6th respondent is concerned the order of the Arbitrator has not been disturbed.

2. Sri W.V. Arbatti, learned Counsel for the petitioner, put forth the following two contentions, viz., (i) that the dispute in question does not fall under S. 70 of the Karnataka Co-operative Societies Act, 1959 (hereinafter referred to as the Act) as it falls under S. 69 of the Act, therefore, the Registrar of Co-operative Societies could not have entertained the dispute, hence the dispute should be dismissed without going into the merits of the claim and (ii) that the 7th Respondent. being a necessary party to the dispute, the Tribunal acted illegally in setting aside the order of the Arbitrator impleading the 7th respondent as a party

to the dispute.

3. I do not see any ground to accept the contentions of the petitioner. The contention of the learned Counsel based on the provisions contained in S. 69 of the Act cannot be accepted in view of the coming into force of the Karnataka Act No. 19 of 1976. No doubt, prior to the coming into force of the Karnataka Act No. 19 of 1976, no dispute under S. 70 of the Act could have been maintained in respect of the matter falling under S. 69 of the Act, but, after the coming into force of the Act No. 19 of 1976, the position has been changed. Earlier to Act No. 19 of 1976, the matter falling under S. 69 of the Act was not included within the ambit of S. 70 of the Act. Act No. 19 of 1976 has introduced sub-clause (e) in sub-section (2) of S. 70, thereby bringing the matter falling under S. 69 of the Act within the ambit of S. 70 of the Act. Therefore, the matter falling under Sec. 69 of the Act can also be the subject matter of dispute under S. 70 of the Act. Further, it is also relevant to note that S. 106 of the Act, as it stood earlier to the passing of the Act No. 19 of 1976, provided for an appeal against the order passed under S. 69 of the Act to other authorities other than the Tribunal. The amendment Act 19 of 1976 has deleted that provision relating to appeal and has in turn provided an appeal to the Tribunal under S. 105 of the Act against an order passed by the Registrar under Sec. 69 of the Act. If these amendments effected by Act 19 of 1976 are read together, the same go to establish that the matter falling under Sec. 69 of the Act, can now be the subject matter of the dispute under Sec. 70 of the Act also. Therefore, the contention of the learned Counsel that the dispute cannot be entertained by the Registrar cannot at all be accepted in view of the aforesaid amendments and also in view of the fact that the dispute is at the initial stage, as such it is open for the Registrar enter to deal with it himself or to refer it to the Arbitrator; therefore, the first contention of the learned Counsel cannot be accepted.

4. The 2nd contention of the learned Counsel for the petitioner that the 7th respondent is a necessary party to the dispute, it is pertinent to notice that the petitioner being the defendant in the suit and having taken up a contention that the 7th respondent is a necessary party to the dispute, even then the 7th respondent is not impleaded and ultimately if it is established in the proceeding that the 7th respondent is a necessary party to the dispute, it will enure to the benefit of the petitioner-defendant, because on that score, the dispute can be dismissed. Therefore, it is not necessary to interfere with the order of the Tribunal in so far it relates to setting aside of the order of the Arbitrator impleading respondent No. 7, at the "instance of the petitioner. However, it is made clear that it is open for the petitioner to urge this contention in the main dispute irrespective of the order of the Tribunal. It is the respondent-society which can be said to be the aggrieved party against this portion of the order of the Tribunal.

For the reasons stated above, there is no ground to issue rule. Accordingly, writ petition is rejected.