
(2003) 03 AP CK 0004
In the Andhra Pradesh High Court
Case No : CMA No. 971 of 2003

Viswender Arya and Others	Vs	APPELLANT
Arya Pratinidhi Sabha and Others		RESPONDENT

Date of Decision : 03-03-2003

Acts Referred:

Andhra Pradesh and Telangana Societies Registration Act, 2001 — Section 23

Citation : (2003) 3 ALD 153 : (2003) 3 ALT 485

Hon'ble Judges : P.S. Narayana, J

Bench : Single Bench

Advocate : K. Sarvadhuma Rao, for the Appellant; Venkata Raghu Ramulu, for the Respondent

Judgement

P.S. Narayana, J.—Heard Sri Sarvabhuma Rao, learned Counsel for the appellants and Sri Venkataraghuramulu., learned Counsel representing respondents 1 to 3.

2. The order impugned in the present CMA was made in LA. No. 561/2003 in OP No. 549/2003 on the file of the Chief Judge, City Civil Court, Hyderabad. Respondents 1 to 3 in the appeal as petitioners filed OP No. 549/2003 u/s 23 of the A.P. Societies Registration Act, 2001 praying for the reliefs of declaration of the alleged proceedings dated 20.11.2002 purporting to dissolve the duly elected governing body of the first petitioner as illegal, void ab initio and not binding on them and also declaring that the appointment of the alleged ad hoc committee under and in pursuance of the alleged proceedings dated 20.11.2002 as illegal, void ab initio and for permanent injunction restraining the respondents, their agents, servants, office bearers, employees, nominee or nominees, assignees etc., from interfering with the affairs and management of the first petitioner and other institutions and for other appropriate reliefs. The petitioner moved IA No. 561/03 in the said OP u/s 23 of A.P. Societies Registration Act, 2001 read with Section 39 and Rules 1 and 2 of CPC. The learned Chief Judge, City Civil Court, Hyderabad had passed the order on 24.4.2003 and aggrieved by the same the

present CMA is preferred by the appellants.

3. A preliminary objection regarding the maintainability of the CMA is raised by Sri Venkata Raghu Ramulu, learned Counsel for respondents 1 to 3 inasmuch as the learned Counsel entered appearance while lodging caveat in the matter. Strong reliance was placed on the decision of the Full Bench of this Court in G.V. Ranga Rao and another Vs. A.P. State Electricity Board Engineers Association and another, .

4. Sri Sarwabhouma Rao, learned Counsel for the appellants had submitted that the Full Bench decision was rendered while dealing with a similar situation under A.P. (Telangana Area) Public Societies Registration Act, 1350-F. The learned Counsel had also submitted that in view of the fact that the language of Section 11 of the said Act is in paramateria with the language employed u/s 23 of the A.P. Societies Registration Act, 2001, remedy is only by way of Revision and not by way of Civil Miscellaneous Appeal under Order 43 Rule 1 of CPC.

5. Heard both the Counsel.

6. Section 11 of A.P. (Telangana Area) Public Societies Registration Act, 1315F reads as follows:

"In the event of any dispute arising among the Managing Committee or the members of the Society, in respect of any management or dissolution of the Society, any member of the Society may file an application in the District Court concerned, and the said Court shall after necessary inquiry pass such order as it shall deem fit."

7. Section 32 of A.P. Societies Registration Act, 2001 deals with repeals and savings and the said provision reads as follows:

"Repeals and Savings :--(1) The Societies Registration Act, 1860, (Central Act 21 of 1960) in its application to the Andhra Area of the State of Andhra Pradesh and the Andhra Pradesh (Telangana Area) Public Societies Registration Act, 1350F (Act 1 of 1350F) are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Acts (including any order, rule, form, regulation, certificate or bye-laws) in the exercise of any power conferred by or under the said Acts shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as it this Act was in force on the date on which such a thing was done or action taken."

8. It is pertinent to note that A.P. (Telangana Area) Public Societies Registration Act, 1350F (Act 1 of 1350F) had been repealed by virtue of Section 32 of the aforesaid Act. Section 23 of the A.P. Societies Registration Act, 2001 dealing with the dispute regarding management which is extracted hereunder:

"Dispute regarding management :--In the event of any dispute arising among the Committee or the members of the society, in respect of any matter relating

to the affairs of the society, any member of the society may proceed with the dispute under the provisions of the Arbitration and Conciliation Act, 1996, (Central Act 26 of 1996) or may file an application in the District Court concerned and the said Court shall after necessary inquiry pass such order as it may deem fit."

9. Though the language of Section 11 of the repealed Act and Section 23 of the present Act cannot be said to be the same exactly in substance, the language employed appears to be one and the same. Hence the ratio laid down by the Full Bench of this Court in G.V. Rangarao's case, (supra), is definitely applicable to the facts of the present case also. It is also not in dispute between the parties that there is no provision under A.P. Societies Registration Act, 2001 relating to the applicability or extension of the provisions of CPC to the said proceedings. In the light of the same and in the peculiar circumstances of the case, learned Counsel for the appellants is permitted to convert the proceeding into Civil Revision Petition and the office is directed to post the matter before appropriate Bench on 5.3.2003.