

**Case Name:** -Ananda Housing Co-Operative Society Limited v. Assistant Registrar of Co-Operative Societies

**Citation:** -2014 SCC OnLine Kar 2788

**Link:** -<http://www.sconline.com/DocumentLink/d0CNr7C4>

**Judgement:** -<https://share.google/d8SH1TNrSzfoRn4s5>

**Summary and Conclusion: -**

Ananda Housing Co-Operative Society Limited v. Assistant Registrar of Co-Operative Societies & Anr. (2014), centers on a procedural lapse during an appeal that led to the attempted seizure of the Society's property.

The history can be broken down into three stages:

**1. The Original Dispute and Award**

The matter originated from a dispute (No. 4/2007-08) before the Assistant Registrar of Co-Operative Societies, Mysore Sub-Division. On May 26, 2011, the Assistant Registrar passed an award against the Ananda Housing Co-Operative Society. This award favored the second respondent (Smt. A.R. Hemavathi), who had been struggling for a long time to get a site allotted from the Society.

**2. The Appeal and the Interim Stay**

The Society challenged this award before the Karnataka Appellate Tribunal (Appeal No. 705/2012). Initially, the Tribunal granted an interim order of stay on April 26, 2013, which protected the Society from the execution of the award while the appeal was being heard.

**3. The Procedural Lapse (The "Background" to the Writ)**

The conflict that reached the High Court arose due to the following sequence of events:-

**Case Transfer:** The appeal was transferred to the "Mysore Camp" for hearing.

**Non-Appearance:** When the case was called on August 2, 2013, the petitioner (the Society) failed to appear before the Tribunal.

**Expiration of Stay:** Because the Society did not appear, the interim stay was not extended.

**Execution Proceedings:** With the stay gone, the respondent immediately filed an Execution Petition (No. 73/2013) before the Principal Civil Judge and JMFC, Mysore.

**Impugned Order:** On October 7, 2013, the Civil Judge passed an order to attach the movable properties of the Society to satisfy the original award.

**Key Legal Conflict**

The Society argued that it had made "sincere efforts" to have the stay extended but was unable to serve the necessary applications to the opposing counsel in time. They approached the High

Court via this Writ Petition (W.P. No. 53885/2013) to stop the attachment of their properties and to get their appeal heard on its merits.

The High Court of Karnataka, in the case of Ananda Housing Co-Operative Society Limited v. Assistant Registrar of Co-Operative Societies & Anr. (2014), concluded the matter by disposing of the writ petition based on a mutual agreement between the parties to expedite the underlying appeal.

Breakdown of the court's final directions:

### **1. Expedited Hearing of the Appeal**

The court directed the Karnataka Appellate Tribunal to take up the pending appeal (Appeal No. 705/2012) on April 21, 2014, in Bengaluru. The Tribunal was ordered to hear and dispose of the case on its merits within a period of three months from that date.

### **2. Stay on Execution Proceedings**

The second respondent (the decree holder) gave an undertaking not to proceed with the execution of the award for a period of three months. Consequently, the High Court ordered that the execution proceedings shall await the decision of the Tribunal during this timeframe.

### **3. Payment of Costs**

The petitioner (the Society) was directed to pay Rs. 6000/- to the second respondent towards the costs of the legal proceedings.

**Case Name:** -Anwarkhan v. Joint Registrar of Co-Operative Societies

**Citation:** - 2015 SCC OnLine Kar 2680

**Link:** -<http://www.sconline.com/DocumentLink/42Br7uOq>

**Judgement:** -<https://share.google/N36RrjCb6Abc9aHft>

### **Summary and Conclusion: -**

Anwarkhan v. Joint Registrar of Co-Operative Societies & Ors. (2015) involves a legal challenge against the administrative actions taken regarding a specific housing society in Dharwad.

### **The context leading up to the High Court filing:**

#### **1. The Parties Involved**

The petitioner, Anwarkhan Desai (a 64-year-old retired employee), filed the petition through his GPA holder. The dispute was directed at:

The Joint Registrar of Co-Operative Societies, Belgaum.

The Umar Housing Society Limited, Dharwad (Respondent No. 2).

The Liquidator of the said Society (Respondent No. 3).

The Assistant Registrar, Dharwad (Respondent No. 4).

## **2. The Core Grievance**

While the specific internal details of the initial dispute aren't fully detailed in the withdrawal order, the background focuses on the governance and registration status of The Umar Housing Society. The petitioner was aggrieved by actions taken by (or in respect of) the Liquidator (Respondent No. 3).

## **3. The Objective of the Litigation**

The petitioner's primary goal was to seek "consequential reliefs" related to the cancellation of the registration of the Umar Housing Society Limited. It appears the petitioner was challenging the validity of the society's continued existence or the specific way it was being liquidated.

## **4. Procedural Shift**

During the hearing before the High Court, it became clear that the petitioner had a more direct statutory remedy available. Under the Karnataka Co-operative Societies Act, 1959, specifically Section 72, there is a formal process for appealing or questioning orders made by officials (like the Liquidator or Registrar).

Realizing that the High Court might not entertain a Writ Petition when a specific statutory remedy (an appeal under Section 72) had not yet been exhausted, the petitioner chose to withdraw the case to move through the proper administrative hierarchy instead.

### **Key Takeaway :-**

This case serves as a practical example of the "Exhaustion of Alternative Remedies" principle. In Indian Co-operative Law, if the Act provides a specific section (like Section 72) for appeals, the High Court often encourages the parties to use that route before invoking Writ jurisdiction.

Anwarkhan v. Joint Registrar of Co-Operative Societies & Ors. (2015), the High Court of Karnataka reached a procedural conclusion rather than a judgment on the merits of the dispute.

### **The conclusion of the order:**

#### **1. Withdrawal of the Writ Petition**

The petitioner's counsel, after arguing the case for some time, sought permission to withdraw the writ petition. The Court formally recorded this submission and permitted the withdrawal.

#### **2. Liberty to Pursue Alternative Remedy**

The primary reason for the withdrawal was the petitioner's intention to challenge specific orders under Section 72 of the Karnataka Co-operative Societies Act, 1959. Specifically, the petitioner aims to:

Question the orders passed regarding Respondent No. 3 (The Liquidator of The Umar Housing Society Ltd.).

Seek consequential reliefs regarding the cancellation of the registration of The Umar Housing Society Limited, Dharwad.

### **3. Preservation of Contentions**

The Court explicitly stated that all contentions raised in the writ petition are left open. This means the Court did not rule on the right or wrong of the original arguments, allowing the petitioner the "liberty to seek relief in accordance with law" through the appropriate statutory channels (the Section 72 process).

**Case Name:** -Appa Saheb R. Kerakalamatti v. Addl. Registrar of Co-operative Societies in Karnataka

**Citation:** -1985 SCC OnLine Kar 107

**Link:** -<http://www.sconline.com/DocumentLink/EUoOD1r9>

**Judgement:** -<https://share.google/s7e6HCmEZYafchXMx>

**Summary and Conclusion:** -

#### **1. The Institutional Context**

The petitioner was a member of both the Executive Committee and the Loan Sub-Committee of the Bijapur District Central Co-operative Bank. The Bank operated under the Karnataka Co-operative Societies Act, 1959, and was governed by specific internal bye-laws regarding loan recovery.

#### **2. The Controversial Resolution**

On December 14, 1983, a committee meeting was held where a decision was taken to:-

Grant a three-month extension for the repayment of 41 loans across 34 societies, totaling Rs. 67,35,504/-.

Sanction fresh "Cash Credit" and "High Yielding Variety Programme" loans to several societies.

**The Critical Timing:** This resolution was passed just three days before the announcement of the defaulters' list for the upcoming general body meeting and committee elections. By granting these extensions, the societies were no longer technically "defaulters" and remained eligible to vote.

#### **3. The Regulatory Charge**

**The Joint Registrar of Co-operative Societies, Belgaum, initiated action against the committee members under Section 126-A of the Act. He alleged:-**

**Violation of Bye-law 39:** Extensions could only be granted in "exceptional circumstances" and before repayment fell due. Here, the loans were already overdue.

**Lack of Bona Fides:** The Registrar concluded the move was intended to "exclude societies from the defaulters' list" for election purposes, which was prejudicial to the bank's interests.

## **II. The Legal Conclusion**

### **1. The Ruling on Individual Liability**

The High Court, presided over by Justice Rama Jois, reached a landmark conclusion regarding the interpretation of Section 126-A. The court held that this section contemplates action against a member for individual acts of commission or omission, not for a collective decision made by a committee.

### **2. Corporate Body vs. Individual Member**

The Court reasoned that when a committee (a corporate body) passes a resolution, it is an act of the entire body. If the decision is improper, the Registrar has the power to:-

Supersede the entire committee under Section 30.

Appoint a Special Officer under Section 30-A.

However, the Registrar cannot "cherry-pick" individual members for disqualification under Section 126-A simply because they were part of a majority vote, unless personal fraud or individual gross negligence is proven.

### **3. The Final Order**

**The High Court allowed the Writ Petition and issued the following directives:**

**Quashing of Orders:** The original disqualification order (dated March 17, 1984) and the appellate order (dated August 28, 1984) were quashed.

**Restoration of Eligibility:** The three-year disqualification was set aside, restoring the petitioner's right to hold office in any co-operative society.

**Nullification of Sale:** On a separate procedural ground (Rule 84 non-compliance), the court also set aside a related sale of property, declaring it a nullity.