

Case Name: - Alima Fouzia v. Joint/Additional Registrar of Coop. Societies

Citation: - 2024 SCC OnLine Kar 18363

Link: - <http://www.sconline.com/DocumentLink/7ywt34bt>

Judgement: - <https://share.google/S9mVGgFgxKY9XZXxp>

Conclusion: -

Alima Fouzia v. Joint/Additional Registrar of Co-operative Societies, stems from a financial recovery dispute involving a loan and the subsequent legal hurdles in appealing the award.

Here is the sequence of events leading up to the High Court's order:

1. The Original Award

On April 22, 2024, a legal "award" (a judgment in a co-operative dispute) was passed against the petitioner (Alima Fouzia) and two others. They were directed to "jointly and severally" pay a sum of Rs. 38,18,176/- plus interest at 11.5%.

2. The Debt Calculation

By the time the matter reached the appeal stage, the total amount due (principal plus interest) was calculated as follows:

Principal: Rs. 25,52,222/-

Interest: Rs. 7,92,464/-

Total Amount Due: Rs. 46,10,640/-

3. Prior Payments under SARFAESI

Before this specific appeal, the Bank had initiated proceedings under the SARFAESI Act (a law allowing banks to recover dues by auctioning secured assets). During those proceedings, the petitioner had already paid Rs. 13,00,000/- to the bank.

4. The Appeal and the "25% Rule"

The petitioner filed an appeal against the award before the Karnataka Appellate Tribunal (KAT). Under Section 105 of the Karnataka Co-operative Societies Act, a party appealing an award must typically deposit 25% of the amount due as a "statutory deposit" for the appeal to be heard.

5. The Dispute over the Deposit

The petitioner filed an application (I.A. No. 2) asking the Tribunal to waive (dispense with) the 25% deposit requirement.

Petitioner's Argument: They argued that since they had already paid Rs. 13,00,000/- (which is more than 25% of the total award), they should not have to pay any more money just to have their appeal heard.

Tribunal's Decision: On November 25, 2024, the KAT rejected this request, insisting that a fresh deposit was required.

6. The Writ Petition

Aggrieved by the Tribunal's refusal to waive the deposit, Alima Fouzia filed this Writ Petition in the High Court of Karnataka, seeking to quash the Tribunal's order and allow the appeal to proceed without further payment.

As per the order passed by the High Court of Karnataka on December 17, 2024, is that the Writ Petition was dismissed.

The Final Order

The Court declined to quash the Karnataka Appellate Tribunal's (KAT) order. However, it did not leave the petitioner without a path forward:

Dismissal: The petition was formally dismissed.

Liberty to Re-approach: The Court granted the petitioner "liberty" (permission) to go back to the KAT. Condition for Hearing: The KAT is instructed to consider the matter only if the petitioner offers to deposit 25% of the remaining balance amount (calculated by the Court as Rs. 33,10,640). Core Reasoning The dispute centred on the "statutory deposit" required to file an appeal under Section 105 of the Karnataka Co-operative Societies Act.

The petitioner argued they shouldn't have to pay a deposit because the Rs. 13 lakhs already paid exceeded 25% of the original award. The Court disagreed, essentially ruling that the 25% deposit must be calculated based on the amount currently under challenge (the balance), regardless of prior payments.

Summary of the "Next Step" for the Petitioner

The petitioner must now approach the Karnataka Appellate Tribunal and offer to deposit 25% of the Rs. 33,10,640 balance. If they do this, the KAT is directed to proceed with the case subject to verifying the actual amounts paid.

Case Name: - Amanath Co-Operative Bank Ltd. v. Co.-Op Societies

Citation: - 2013 SCC OnLine Kar 3170

Link: - <http://www.sconline.com/DocumentLink/s8RGOUbG>

Judgement: - <https://share.google/HxfeiBj8F36nZpZX8>

Conclusion: -

The background of Writ Appeal No. 402/2012 involves a procedural breakdown where the Amanath Co-operative Bank Ltd. challenged an order involving the Registrar of Co-operative Societies, but failed to follow the basic legal requirements for filing an appeal.

1. The Parties Involved

Appellant: Amanath Co-operative Bank Ltd.

Respondents: The Registrar of Co-operative Societies (Urban Banks), the Joint Registrar, an Inquiry Officer (Shri K.P. Appanna), and a private individual (Azees Mohammad).

2. The Original Dispute

While the specific merits of the underlying dispute aren't detailed in this short order (because the case never got past the "filing" stage), the case title and the respondents involved indicate it was a Co-operative Society dispute involving an inquiry or a decision made by the Registrar's office.

3. Chronology of Procedural Neglect

The "background" of this specific High Court judgment is essentially a timeline of legal inaction by the Bank's legal team:

January 2012: The Bank filed the Writ Appeal to challenge a previous order. However, the filing was "bare bones" it only included a copy of the order they were fighting, with no other supporting documents or proper formatting.

The "Office Objections": The High Court Registry identified several "office objections" (procedural errors). These typically include things like missing signatures, incorrect filing fees, or missing supporting affidavits.

The 15-Month Silence: For 1 year and 3 months, the Bank's counsel made no effort to fix these errors. Crucially, the counsel had not even signed the pages of the appeal memo.

The "Last Chance" (February 2013): The Court officially warned the Bank on February 7, 2013, giving them a final two-week window to fix the paperwork.

The Final Lapse: Two more months passed after that "last chance" deadline with no response or correction from the Bank.

4. The Limitation Issue

Adding to the background was a delay in filing. In Indian law, appeals must be filed within a specific timeframe (the limitation period). The Bank filed this appeal late but failed to file a "condonation of delay" application to explain why they were late.

Why these matters

In legal terms, this case is a "background" lesson in procedural compliance. The Court dismissed it not because the Bank was wrong on the facts of the loan or the inquiry, but because the Bank's legal representation was deemed too "casual" and "unprofessional" to be allowed to proceed.

The conclusion of the case Amanath Co-operative Bank Ltd. v. The Registrar of Co-Op Societies (Urban Banks) and Others is that the Writ Appeal was dismissed for non-prosecution.

The Court's decision was based on several procedural failures by the appellant bank:

Failure to Comply with Office Objections: The appeal was filed on January 24, 2012. For over a year and three months, the appellant failed to rectify "office objections" (procedural errors or missing documents identified by the court registry).

Casual Filing: The Court noted that the appeal papers were filed in a "casual manner." Specifically, other than a copy of the impugned order, there was nothing in the appeal papers, and the counsel had not even signed the end of each page in the appeal memo.

Unexplained Delay: There was a delay in filing the appeal, yet no application was filed to condone (excuse) that delay.

Final Opportunity Ignored: On February 7, 2013, the Court granted a final two-week chance to comply with the objections. Two months passed after that deadline with no action taken.

Ultimately, the High Court observed that the appellant had taken the court for granted and, seeing no reason to adjourn the matter further, dismissed the appeal entirely.