

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

**Citation:** -1985 SCC OnLine Kar 105

**Link:** -<http://www.sconline.com/DocumentLink/92T289g8>

**Judgement:** -<https://share.google/fH52M9RV7BfS53YMQ>

**Summary and conclusion:** -

Appa Saheb v. Additional Registrar of Co-operative Societies (1985), centers on a dispute over the extension of loan repayments and the subsequent attempt by regulatory authorities to disqualify a committee member for a collective decision.

### **1. The Parties and the Society**

**The Petitioner:** Appa Saheb, who was a member of both the Executive Committee and the Loan Sub-Committee of the Bijapur District Central Co-operative Bank.

**The Society:** The Bijapur District Central Co-operative Bank, functioning under the Karnataka Co-operative Societies Act, 1959.

### **2. The Controversial Decision**

On December 14, 1983, the Executive Committee of the Bank passed a resolution to grant a three-month extension for the repayment of 41 loans held by 34 different societies. The total amount involved was approximately ₹67,35,504.

### **3. The Alleged Violation**

The Joint Registrar of Co-operative Societies took issue with this decision for two primary reasons:-

**Violation of Bye-laws:** Under the Bank's Bye-law No. 39, extensions could only be granted in exceptional circumstances and only before the repayment fell due.

**Mala Fide Intent:** The Registrar alleged that the extension was granted just three days before the announcement of a "defaulters list." By granting the extension, those 34 societies were no longer considered "defaulters," allowing their representatives to remain eligible to vote and contest in the upcoming general body meeting and elections.

### **4. Initial Regulatory Action**

The Joint Registrar viewed this act as "prejudicial to the interest of the Bank" and initiated action under Section 126-A of the Karnataka Co-operative Societies Act: -

**Removal and Disqualification:** On March 17, 1984, the Joint Registrar passed an order removing the petitioner from his office and disqualifying him from holding any office in the Bank or any other co-operative society for three years.

**Unsuccessful Appeal:** The petitioner appealed this decision to the Additional Registrar, who dismissed the appeal and confirmed the disqualification.

## **5. The Core Legal Dispute**

The petitioner then approached the Karnataka High Court through a Writ Petition. His primary argument was that Section 126-A was intended to punish individual misconduct (like fraud or gross negligence). He contended that since the decision to grant the loan extension was a collective resolution passed by the entire committee, he could not be singled out and disqualified for an act of the body as a whole.

In the case of Appa Saheb vs. Additional Registrar of Co-operative Societies, the Karnataka High Court concluded that a member of a managing committee cannot be disqualified under Section 126-A of the Karnataka Co-operative Societies Act for a collective decision made by the committee.

**The court's final ruling was as follows:**

### **Final Conclusion and Order**

**Writ Petition Allowed:** The court ruled in favor of the petitioner, Appa Saheb.

**Quashing of Orders:** The orders passed by the Joint Registrar (dated March 17, 1984) and the Additional Registrar (dated June 7, 1984), which had removed and disqualified the petitioner, were set aside.

**No Costs:** The court did not impose any legal costs on either party.

### **Key Legal Principles Established**

**The conclusion was based on a specific interpretation of the Law regarding individual vs. collective responsibility:**

**Individual vs. Collective Liability:** The court held that Section 126-A is intended to punish individual misconduct (acts of commission or omission by a member in their personal capacity). It cannot be used to penalize an individual for being part of a group that passed a resolution, even if that resolution is later found to be improper.

**Distinct Legal Remedies:** The judge clarified that if a whole committee acts against the interests of a society, the Registrar should use Section 30 or 30-A to supersede or replace the entire committee, rather than singling out individual members for disqualification under Section 126-A.

**Lack of "Vicarious Liability":** Unlike certain provisions in Company Law or Labor Law, the Co-operative Societies Act did not contain specific language to make individual directors automatically liable for the "acts of the body corporate" unless they committed specific fraudulent or negligent acts independently.

**Case Name:** - Arjun Ramappa Chigadolli v. Assistant Registrar of Co-operative Societies

**Citation:** -1988 SCC OnLine Kar 127

**Link:** -<http://www.sconline.com/DocumentLink/2BanS6CY>

**Judgement:** -<https://share.google/AsZrh4QcgA6LizCkI>

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

Arjun Ramappa Chigadolli vs. Assistant Registrar of Co-operative Societies (1988) involves a dispute over the persistent absence of management committee members and the Registrar's initial refusal to disqualify them.

#### **1. The Parties and the Society**

**The Petitioner:** Arjun Ramappa Chigadolli, a primary member of the respondent-2 Co-operative Society.

**The Managing Committee:** A body consisting of nine elected members responsible for the society's governance.

**The Respondents:** The Assistant Registrar of Co-operative Societies (Respondent-1) and the Co-operative Society itself (Respondent-2).

#### **2. The Alleged Misconduct (Absence from Meetings)**

The core of the dispute was the violation of Bye-law No. 23 of the Society. According to this bye-law:-

Any Director who abstains from three consecutive meetings of the Managing Committee without valid reasons is deemed to have retired from their position.

The petitioner alleged that seven out of the nine Directors had failed to attend more than three consecutive meetings between September 1987 and February 1988 (specifically citing seven distinct meeting dates).

#### **3. The Special General Body Meeting**

On February 20, 1988, a Special General Body Meeting was held, attended by 354 members (representing over 75% of the primary membership).

**The Resolution:** The members passed a resolution requesting the Assistant Registrar to invoke powers under Section 126-A of the Karnataka Co-operative Societies Act to disqualify the seven habitually absent Directors.

**The Request:** This resolution was formally submitted to the Assistant Registrar to initiate the removal process.

#### **4. The Registrar's Refusal (Annexure-H)**

On March 21, 1988, the Assistant Registrar issued an endorsement (Annexure-H) declining the request to disqualify the Directors. He justified this refusal by claiming:-

The resolution passed by the General Body was "contrary to law" and opposed to Section 28 of the Act.

The seven Directors supposedly enjoyed "majority support," and therefore, the society's transactions should continue as usual.

## **5. Legal Challenge**

The petitioner, aggrieved by the Registrar's refusal to act, approached the Karnataka High Court. He argued that once the Registrar was made aware of a clear violation of the Bye-laws (the consecutive absences), the Registrar had a statutory duty under Section 126-A to investigate and take action, regardless of whether the Directors had "majority support" or whether the General Body resolution was technically perfect.

In the case of Arjun Ramappa Chigadolli vs. Assistant Registrar of Co-operative Societies (1988), the Karnataka High Court concluded that the Assistant Registrar (Respondent-1) failed to exercise his legal duty by refusing to investigate allegations of misconduct against committee members.

**The court's final ruling and orders were as follows:**

### **Final Conclusion and Order**

**Quashing of Endorsement:** The court quashed the endorsement (Annexure-H) issued by the Assistant Registrar, which had previously declined to take action against seven directors of the society.

**Mandatory Investigation:** The court directed the Assistant Registrar to notify the seven specific members of the Managing Committee regarding the allegations that they violated Bye-law No. 23 (concerning consecutive absences from meetings).

**Due Process:** The Registrar was ordered to invite objections or explanations from these members and then pass appropriate orders regarding their disqualification based on the facts found.

**Time Limit:** The court imposed a strict deadline, directing that the entire matter be disposed of within sixty days from the receipt of the court order.

### **Key Legal Principles Established**

The judgment clarified several important aspects of the Karnataka Co-operative Societies Act, 1959:

**Powers Under Section 126-A:** The court held that the Registrar has the power to remove a member of a Managing Committee if they contravene the society's Bye-laws. This power can be exercised based on a report or "even otherwise" (suo motu).

**Registrar's Duty to Act:** The Assistant Registrar had originally argued that he couldn't act because the resolution for removal was contrary to Section 28 of the Act. The court corrected this "misconception," stating that the Registrar has an independent duty under Section 126-A to examine allegations of misconduct once they are brought to his attention.

**Importance of Opportunity of Representation:** The court emphasized that no order of removal or disqualification can be passed without first giving the affected members a fair opportunity to make a representation (natural justice).

**Impact of Bye-law Violations:** The court noted that if seven out of nine directors had indeed ceased to be members due to consecutive absences, it was imperative for the authorities to act to ensure the proper future conduct of the society's affairs.

**Case Name:** -Asha Shenoy v. Assistant Registrar of Co-Operative Societies

**Citation:** -2021 SCC OnLine Kar 12482

**Link:** -<http://www.sconline.com/DocumentLink/deu312TJ>

**Judgement:** -<https://share.google/Zbo7MZxQMf2DwwIPD>

**Summary and conclusion: -**

Asha Shenoy vs. Assistant Registrar of Co-operative Societies (2021) involves a complicated legal dispute over property recovery, a default in loan repayment, and the rights of an "agreement holder" versus an "auction purchaser."

### **1. The Debt and the Default**

The case began with a financial default by Respondent No. 4. Because Respondent No. 4 failed to clear outstanding dues owed to the Co-operative Society, the society initiated recovery proceedings. To recover the money, the society moved to auction the debtor's properties (identified as Schedule 1, 2, and 3 premises).

### **2. The Appellant's Interest (The Agreement to Sell)**

The appellant, Asha Shenoy, was not the original owner or the debtor. Her claim was based on a private legal arrangement:

She held an "Agreement to Sell" executed by the debtor (Respondent No. 4).

Based on this agreement, she claimed an interest in the properties that the society was trying to auction.

### **3. The Auction and Sale notice**

On February 24, 2010, a sale notice was issued to bring the properties to public auction.

Despite the appellant's objections, the auction proceeded.

Respondent No. 5 emerged as the successful bidder (the auction purchaser) for the Schedule 2 and 3 premises.

The sale was subsequently confirmed in favor of Respondent No. 5, who then further alienated (sold or transferred) the property to a third party.

### **4. The Initial Writ Petition**

Asha Shenoy filed a Writ Petition (No. 15339/2010) challenging the legality of the sale notice and the subsequent auction. She sought to have the auction set aside. However, on July 8, 2019, the Single Judge dismissed her petition, leading her to file this Writ Appeal.

## **5. The Core Legal Issue**

The main conflict was whether a person holding a mere "agreement to sell" could stop a statutory recovery process initiated by a Co-operative Society against a defaulting member. -

The respondents argued that since the sale was already confirmed and the property had changed hands multiple times during the long delay in litigation (the "interregnum"), the Writ Appeal was no longer the appropriate place to resolve the factual complexities of the case.

Asha Shenoy vs. Assistant Registrar of Co-operative Societies (2021), the Karnataka High Court reached a procedural conclusion rather than a ruling on the merits of the property sale.

### **Final Conclusion and Order**

**Disposal of Appeal:** The Writ Appeal was disposed of without the court making a final determination on the legality of the auction or the sale of the property.

**Liberty to Seek Alternative Remedy:** The court granted the appellant, Asha Shenoy, the "liberty" (permission) to approach the Appellate Authority under Section 108 of the Karnataka Co-operative Societies Act, 1959.

**Contentions Left Open:** The court explicitly stated that all contentions on both sides are left open, meaning neither party "won" or "lost" the legal arguments regarding the sale notice or the auction at this stage; those issues are to be decided by the statutory appellate authority.

### **Key Legal Basis for the Conclusion**

**The High Court's decision was rooted in the principle of alternative efficacy of remedies:-**

**Statutory Remedy:** The court noted that the Karnataka Co-operative Societies Act provides a specific internal mechanism (Section 108) for appealing matters related to the society's actions.

**Intervening Facts:** Because the properties (Schedules 2 and 3) had already been sold to a third party (Respondent No. 5) and subsequently alienated again, the court felt the complex factual disputes regarding the auction and the "agreement holder" status of the appellant were better suited for the specialized Appellate Authority.