

**Case Name:** - Basaveshwara House Building Coop. Society v. Joint Registrar of Coop. Societies

**Citation:** - 2024 SCC OnLine Kar 20442

**Link:** - <http://www.sconline.com/DocumentLink/93g7ZYmH>

**Judgement:** - <https://share.google/pGmmqyo0bbzXrOYvI>

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

The background of this case, as detailed in the provided court document, involves a legal challenge by the Basaveshwara House Building Co-Operative Society against orders issued by regulatory authorities of co-operative societies.

### **Key Background Details**

**The Petitioner:** Basaveshwara House Building Co-Operative Society, represented by its Secretary.

**The Respondents:** The Joint Registrar of Co-Operative Societies and the Deputy Registrar of Co-Operative Societies, Raichur.

**The Core Dispute:** The society filed a Writ Petition (under Articles 226 and 227 of the Constitution of India) seeking a "Writ of Certiorari." This is a legal request for the High Court to review and cancel (quash) specific administrative orders.

### **The Challenged Orders**

The society was challenging two specific lower-level decisions:-

**An Order dated December 16, 2019:** Passed by the Joint Registrar of Co-Operative Societies, Raichur.

**An Order dated January 8, 2019:** Passed by the Deputy Registrar of Co-Operative Societies, Raichur, in an appeal matter.

### **The Procedural Turn**

Before the High Court could hear the arguments on why these orders should be quashed, a procedural complication occurred: the Secretary of the petitioner society passed away. Because the petition was being handled through that specific Secretary, the legal counsel for the society filed a "memo" stating that the petition had "abated" (ceased to be active in its current form) due to the demise. Consequently, rather than arguing the original facts of the case, the society requested to withdraw this specific petition while retaining the right to file a new one later.

This case, Basaveshwara House Building Co Operative Society v. Joint Registrar of Co-Operative Societies and Others (2024 SCC OnLine Kar 20442), was decided by the High Court of Karnataka on March 7, 2024.

### **The Legal Issue**

The primary question was whether the Writ Petition could continue following the death (demise) of the Secretary of the petitioner society, who was representing the society in the matter.

### **Conclusion**

The case was withdrawn and closed without a decision on the merits of the original dispute.

Because the Secretary of the society passed away, the society's lawyer informed the court that the current petition had "abated" (essentially paused or lapsed). The Court allowed the society to withdraw the petition but gave them "liberty" which means the legal permission to file a new, fresh petition in the future if they still need to settle the matter.

**Case Name:** - Bharath Coop. Bank Ltd. v. Additional Registrar of Coop. Societies

**Citation:** - 2018 SCC OnLine Kar 4828

**Link:** - <http://www.sconline.com/DocumentLink/p0NopW7V>

**Judgement:** - <https://share.google/teBSNuAw1pKRSXcvV>

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

The background of Bharath Co-operative Bank Ltd. v. Additional Registrar of Co-operative Societies (2018) centers on a dispute over a loan and the legal requirements for depositing money during an appeal.

### **The Original Loan and Dispute**

**The Borrower:** A man named Late Nagaraja (the father of the second respondent) had taken a loan of Rs. 13,00,000/- from Bharath Co-operative Bank.

**The Bank's Claim:** Although the second respondent claimed the loan was cleared, the Bank raised a dispute under Section 70 of the Karnataka Co-operative Societies Act, 1959.

**The Initial Award:** On March 11, 2016, an "award" (judgment) was passed against the deceased borrower's family, ordering them to pay Rs. 6,45,950/- plus interest.

### **The Appeal and the Deposit**

**The Tribunal Appeal:** The family challenged this award before the Karnataka Appellate Tribunal.

**The Mandatory Deposit:** To file the appeal, the second respondent deposited Rs. 1,95,000/- with the Bank, as required under Section 105(2) of the Act (which often requires a portion of the disputed amount to be deposited before an appeal is heard).

**The Tribunal's Decision:** On March 24, 2017, the Tribunal set aside the original award and sent the case back ("remitted") to the Registrar for a fresh hearing because the original decision was legally flawed.

### **The Current Conflict**

Once the original award was cancelled, the second respondent asked for his Rs. 1,95,000/- back, arguing that since there was no longer a valid judgment against him, the Bank had no right to keep the deposit.

The Tribunal ordered the Bank to refund the money. The Bank, however, refused and filed this Writ Petition in the High Court, arguing they should keep the money because the family still "owed" them for the loan, and the case was still being re-heard.

The case of Bharath Co-operative Bank Ltd., Bangalore v. Additional Registrar of Co-operative Societies and Another (2018 SCC OnLine Kar 4828), decided on April 11, 2018, resulted in a victory for the second respondent (the borrower's legal representative). The Legal Issue The primary issue was whether the Bank was legally allowed to keep a deposit of \$Rs. 1,95,000/- \$ after the original court "award" (judgment) against the borrower had been set aside and the case sent back for a new hearing.

### **Conclusion**

The High Court dismissed the Bank's petition and ordered the Bank to refund the money to the second respondent.

The Court's reasoning was as follows: -

**No Legal Basis to Hold Money:** Since the original judgment against the borrower was cancelled (set aside) by the Tribunal, there was no longer any active legal order that required the respondent to pay the Bank.

**Mandatory Refund:** Under Section 105(2) of the Karnataka Co-operative Societies Act, if a case is sent back for a fresh hearing, any money deposited for the purpose of the appeal must be returned if no final amount is currently owed.

**The Order:** The Bank was directed to refund the Rs.1,95,000/- within two weeks.

The Court clarified that if the Bank wins the new hearing in the future, it can then take legal steps to recover whatever is owed, but it cannot hold onto this specific deposit in the meantime.

**Case Name:** - Bhavani v. Registrar of Coop. Societies

**Citation:** - 2014 SCC OnLine Kar 10653

**Link:** - <http://www.sconline.com/DocumentLink/Tw7M7CS9>

**Judgement:** - <https://share.google/rC6fbok4kqKc0GEIH>

**Summary and Conclusion:** -

The background of the case *Smt. Bhavani & Others v. Deputy Registrar of Co-operative Societies & Others* (2014) involves a dispute over the disqualification of elected board members of a co-operative society.

### **The Key Parties**

**The Petitioners:** Eight individuals (including Smt. Bhavani) who were the Elected Directors of the Bilinele Primary Agricultural Credit Co-Operative Society Ltd.

**The Respondents:** The Deputy Registrar (Mangalore), the Assistant Registrar (Puttur Sub-Division), and the Co-Operative Society itself.

### **The Disqualification**

The conflict began when the Assistant Registrar exercised powers under Section 29(C) of the Karnataka Co-operative Societies Act, 1959. Under this section, the Assistant Registrar issued an order disqualifying the petitioners from continuing as Directors of the society.

### **The Appeal and the "Stay" Dispute**

**Statutory Appeal:** Feeling aggrieved by the disqualification, the Directors filed a legal appeal before the Deputy Registrar (the Appellate Authority).

**Request for Interim Relief:** Along with their appeal, they filed applications asking for an interim order of stay. They wanted the disqualification order to be "paused" so they could remain in their positions as Directors while the appeal was being decided.

**The Rejection:** The Deputy Registrar rejected their request for a stay. He argued that granting a stay at that stage would be the same as giving them the final relief they were seeking in the main appeal.

### **The Move to the High Court**

The Directors then approached the High Court of Karnataka via this Writ Petition. Their primary argument was that if the disqualification wasn't stayed, they would be immediately deprived of their right to perform their duties as elected officials, rendering their appeal practically useless even if they eventually won.

The High Court agreed with the Directors, noting that the Deputy Registrar had "proceeded wrongly" and failed to appreciate the "prima facie case" made out by the petitioners.

The case of *Smt. Bhavani & Others v. Deputy Registrar of Co-operative Societies & Others* (2014 SCC OnLine Kar 10653), decided by the High Court of Karnataka on December 11, 2014, resulted in a favorable procedural outcome for the petitioners.

### **The Legal Issue**

The core issue was whether the Deputy Registrar (Appellate Authority) was justified in refusing to grant an interim stay on the disqualification of the petitioners as Directors of the Bilinele Primary Agricultural Credit Co-operative Society.

## **Conclusion**

The High Court set aside (cancelled) the Deputy Registrar's refusal to grant a stay and ruled in favor of the petitioners.

### **The Court concluded that:**

**The Deputy Registrar was wrong to deny the stay on the grounds that it "amounted to granting final relief."**

**A "Stay" was necessary:** If the disqualification order wasn't paused while the appeal was being heard, the petitioners would be unfairly removed from their duties as Elected Directors before the case was even decided.

**The Decision:** The Court granted an interim order of stay on the disqualification. This means the petitioners were allowed to continue in their roles as Directors until the Deputy Registrar passes a fresh, final order on their applications.

The Court directed the Deputy Registrar to reconsider the applications and pass appropriate orders as quickly as possible.