

**Case Name:-** Common Cadre Committee of Hassan District Primary Agricultural Co-operative Societies, Hassan v. Joint Registrar of Co-operative Societies, Mysore Region, Mysore

**Citation:-** 2009 SCC OnLine Kar 514

**Link:-** <http://www.sconline.com/DocumentLink/xF6M0Mym>

**Judgement:-** <https://share.google/QmQ4lwmODvsaAXKaP>

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

The background of the case The Common Cadre Committee vs. The Joint Registrar of Co-operative Societies and Others (Writ Petition No. 22610/2009) centers on a dispute over employment status and seniority within a cooperative society.

Based on the legal document, the facts leading up to this order are as follows:

#### **1. The Original Dispute (The "Award")**

The 2nd respondent had initiated proceedings before the Joint Registrar of Co-operative Societies (Respondent No. 1) to challenge his position or seniority. On June 15, 2009, the Joint Registrar issued an order in favor of the 2nd respondent, which presumably cleared the way for his promotion or recognition as a regular employee.

#### **2. The Challenge by the Common Cadre Committee**

The Common Cadre Committee (the petitioner) challenged the Joint Registrar's decision by filing a Writ Petition in the High Court. They argued that the 2nd respondent's very presence in the service was legally flawed. Their primary contentions were:

**Unauthorized Appointment:** The 2nd respondent was appointed on a temporary basis in 1997 by the Managing Director of the District Central Co-operative Bank, who allegedly lacked the authority to make such an appointment under the bank's bye-laws.

**Lack of Formal Recruitment:** The petitioner claimed the 2nd respondent never underwent a formal recruitment process or a "selection" as required by the Karnataka Co-operative Societies Rules, 1960.

**Ineligible for Promotion:** They argued that because the initial appointment was not "regular," the respondent could not claim seniority or promotion over other employees.

#### **3. The Interim Stay**

On August 31, 2009, the High Court issued an interim stay on the Joint Registrar's order. This effectively froze the 2nd respondent's promotion and the implementation of the Joint Registrar's decision while the High Court examined the case.

#### **4. The Immediate Legal Action**

The 2nd respondent then filed Miscellaneous Writ No. 10268 of 2009, asking the Court to vacate (cancel) the stay. He wanted the Joint Registrar's order to be implemented immediately.

#### **Current Status in the Document**

The Court reviewed these background facts and concluded that there were serious "triable issues" regarding the legality of the 2nd respondent's original appointment. Consequently, the Court refused to lift the stay, keeping the 2nd respondent's promotion on hold until the entire case could be heard in detail.

### **Conclusion of the Application**

The specific application (Miscellaneous Writ No. 10268 of 2009) filed by the 2nd respondent to vacate a previous stay order was rejected.

#### **As a result:**

**Interim Stay Remains in Force:** The stay order dated August 31, 2009, which halted the operation of the Joint Registrar's order favoring the 2nd respondent, remains active.

**Promotion/Status Halted:** The 2nd respondent cannot benefit from the Joint Registrar's order (dated June 15, 2009) while the main Writ Petition is still being decided by the Court.

### **Key Reasons for the Decision**

The Court rejected the application based on several prima facie (at first sight) observations:-

**Questionable Appointment:** The Court noted that the 2nd respondent was appointed on a temporary basis in 1997 by a Managing Director who may not have had the legal power to do so under the society's bye-laws or the Karnataka Co-operative Societies Rules, 1960.

**Not a Regular Employee:** Because the 2nd respondent was not appointed through the normal recruitment process, the Court questioned his status as a formal employee.

**Promotion Eligibility:** The Court observed that since the respondent's original status was "under cloud" (doubtful), the question of his promotion to a higher post does not naturally arise at this stage.

**Jurisdictional Oversight:** The Court suggested that the Joint Registrar (Respondent 1) may have overlooked the fact that the 2nd respondent wasn't regularly recruited, focusing instead only on his presence in the seniority list.

**Case Name:-** D. Basavana Gowda v. Registrar of Coop. Societies

**Citation:-** 2001 SCC OnLine Kar 856

**Link:-** <http://www.sconline.com/DocumentLink/YCJ05EJ6>

**Judgement:-** <https://share.google/Pnw5GgbeDYZRG8eDI>

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

The background of D. Basavana Gowda v. Deputy Registrar of Cooperative Societies (2001) involves a dispute over the validity of a public auction conducted to recover debts owed by a cooperative society.

**Here is the chronological breakdown of the events leading to the High Court petition:**

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

The Taluk Agricultural Produce Marketing Society Ltd. (TAPMSL) (Respondent 5) had obtained a loan from the Bellary District Central Co-operative Bank. The Society defaulted on its payments.

Consequently, a dispute was raised, and a legal "award" was passed against the Society for approximately ₹33,14,403.

## **2. The Execution and Auction**

To recover this amount, an execution petition was filed, and several properties belonging to the Society were attached.

**Authorization:** The Society passed a resolution on October 17, 1996, authorizing its President to attend the sale proceedings.

**The Sale:** A public auction was held on May 31, 1997. There were eight bidders in total.

**The Winners:** The petitioners, D. Basavana Gowda and another, emerged as the highest joint bidders with a bid of ₹5.51 lakhs, which was accepted.

## **3. Acceptance and Deposit**

Following the auction, the Society passed another resolution on June 29, 1998, specifically requesting the Registrar to confirm the sale quickly so they could pay off their loan to the bank. The petitioners deposited the entire bid amount, and the sale was published in the official gazette.

## **4. The Reversal (The Impugned Order)**

After the entire process was essentially complete, an Incharge Officer filed an appeal (No. 1/97-98) challenging the confirmation of the sale. On June 24, 1999, the Deputy Registrar of Co-operative Societies (Respondent 2) issued an order setting aside the sale.

**The Deputy Registrar's reasons for canceling the sale were:-**

The notice was not properly served on the Society's Secretary.

The 30-day notice period was allegedly not strictly followed.

The sale price was considered low compared to the expected value.

Petitioner No. 1 was noted to be the brother of the Society's President.

## **5. The High Court Petition**

The petitioners, having already deposited their money and won the bid, filed this Writ Petition (No. 40488 of 1999) to challenge the Deputy Registrar's decision, arguing that the procedure followed was legal and the cancellation was unjustified.

This case, D. Basavana Gowda and Another v. Deputy Registrar of Cooperative Societies and Others (2001), concludes with the Karnataka High Court allowing the petition and setting aside the order that had cancelled the auction sale.

**The court's decision was based on several key legal findings:**

### **1. The Distinction Between Irregularity and "Substantial Injury"**

The Court emphasized that under Rule 38 of the Karnataka Co-operative Societies Rules, 1960 (similar to Order 21, Rule 90 of the CPC), an auction sale cannot be set aside merely because of a "material irregularity." To void a sale, it must be proved that the irregularity caused substantial injury to the party.

The Court found that no such injury was caused to the Society, especially since the Society itself had previously passed a resolution seeking to confirm the sale to settle its debts.

## **2. Failure to Raise Timely Objections**

The Court noted that the Society was aware of the proceedings and even had its President participate in the auction. By failing to raise objections regarding the sale proclamation or the procedure before the sale was finalized, the Society (and the Registrar) could not later challenge it on those grounds.

## **3. Inadequacy of Price**

The Court ruled that a low sale price is not a sufficient reason to demolish a Court/Auction sale. Citing the Supreme Court in *Desh Bandhu Gupta v. N.L. Anand*, the judge noted that a "forced sale" rarely fetches the market price, and "mere inadequacy of price" does not constitute substantial injury.

## **4. Setting Aside the Impugned Order**

The Court found that the Deputy Registrar had erred in setting aside the sale based on technicalities (like a defective notice or the fact that the purchaser was related to the Society's President) because these did not result in a legal failure of justice or material loss to the Society.

## **Final Ruling:-**

The Petition was allowed.

The order of the Deputy Registrar (Annexure-H) was set aside.

The authorities were directed to proceed with the confirmation of the sale in favor of the petitioners.