

Case Name: - G Nagaraju v. Registrar of Coop. Societies

Citation: - 2024 SCC OnLine Kar 32123

Link: - <http://www.sconline.com/DocumentLink/66YHyJ4M>

Judgement: - <https://share.google/ywEID7pinGBtU18h9>

Summary and Conclusion: -

Case Name: G Nagaraju v. Assistant Registrar of Co-Op Societies

Case Citation: 2024 SCC OnLine Kar 32123

Court: High Court of Karnataka (Bengaluru Bench)

Judge: Hon'ble Justice S. Sunil Dutt Yadav

Decision Date: June 14, 2024

Background

The petitioner, G Nagaraju, was elected as a Director of the Janagere Primary Agricultural Credit Co-operative Society Ltd. on February 16, 2020. Following his election, a complaint was filed alleging that he was a defaulter on loan payments due to the Society at the time of his election and therefore should be disqualified.

Key Facts of the Dispute:

Default Records: Official reports indicated the petitioner was in default on three specific loans starting from 2010, 2013, and 2016.

Disqualification Order: Based on these findings, the Assistant Registrar issued an order on September 11, 2020, disqualifying the petitioner under Section 29-C(1)(a) of the Karnataka Co-operative Societies Act, 1959.

Petitioner's Defense: The petitioner argued that although he had been in default, he cleared all dues by June 1, 2020. He contended that because the dues were paid before the formal disqualification proceedings were initiated (July 17, 2020), the power to disqualify under Section 29-C could not be invoked.

Legal Issues

The Court addressed whether a member of a management committee could be disqualified for a default that existed at the time of election but was cleared before the disqualification order was passed.

Conclusion and Judgment

The High Court of Karnataka dismissed the writ petition, upholding the disqualification order.

Key Findings of the Court:

Continuing Cause of Action: The Court held that since the petitioner was in default on the date of his election (February 16, 2020) and remained in default until June 1, 2020, he had incurred disqualification the moment he assumed office.

Subsequent Payment is Not a Cure: The Court emphasized that once a person suffers a disqualification, the mere subsequent clearing of dues does not wipe out the "legal injury" to the democratic process of the society. Allowing members to clear defaults only after an inquiry begins would defeat the transparency and accountability goals of Section 29-C.

Subsequent Payment is Not a Cure: The Court emphasized that once a person suffers a disqualification, the mere subsequent clearing of dues does not wipe out the "legal injury" to the democratic process of the society. Allowing members to clear defaults only after an inquiry begins would defeat the transparency and accountability goals of Section 29-C.

Case Name: - G. Krishnamurthy v. Joint Registrar of Coop. Societies

Citation: - 2024 SCC OnLine Kar 12813

Link: - <http://www.sconline.com/DocumentLink/p605p9t4>

Judgement: - <https://share.google/fWF1vmSEFTZTtIRvN>

Summary and Conclusion: -

Case Background

The dispute originated from a Land Assembling-cum-Development Agreement entered into in 2012 between the appellant (the proprietor of Vinayaka Builders and Developers) and the respondent, MICO Associates Housing Society Ltd. The Society, formed to provide housing sites for factory workers, paid the appellant over Rs. 31.75 crores to procure land.

However, the appellant failed to fulfill the contractual obligations. It was alleged that out of the collected funds, only about Rs. 12.19 crores were paid to landowners, while the appellant pocketed the remainder. Consequently, a dispute was raised under Section 70 of the Karnataka Co-operative Societies Act, 1959. An award was passed in 2017 directing the appellant to refund approximately Rs. 17.57 crores plus damages of Rs. 3 crores.

The appellant then engaged in a "caravan of petitions and appeals" to stall the execution of this award:

Writ Petition (2017): The High Court directed the appellant to deposit Rs. 2 crores as a condition for a stay, which he failed to do.

Multiple Filings: The appellant filed various writ petitions, review petitions, and even an SLP to the Supreme Court (which was withdrawn) to challenge the award and subsequent auction proceedings.

Tribunal Appeal (2023): After a six-year delay, the appellant approached the Karnataka Appellate Tribunal. The Tribunal erroneously admitted the appeal and granted an interim stay against the 2017 award, despite the matter having already attained finality through previous High Court orders.

A Single Judge of the High Court later set aside the Tribunal's proceedings, leading to the present Writ Appeal.

Conclusion of the Court

The Division Bench, comprising Chief Justice N.V. Anjaria and Justice Krishna S. Dixit, dismissed the appeal with the following key observations:

Abuse of Process of Law: The Court characterized the appellant's conduct as a "gross abuse of the process of law." It noted that the appellant used repetitive litigation to avoid discharging legal obligations, thereby eroding faith in the justice delivery system.

Doctrine of Res Judicata: The Court held that since the 2017 award had already been challenged and upheld in previous writ proceedings, the issue was settled. The subsequent appeal to the Tribunal on the same bundle of facts was barred by the principles of res judicata and the finality of judgment.

Illegality of Tribunal Action: The Court ruled that the Tribunal committed a jurisdictional error by admitting an appeal barred by limitation (6 years) without first deciding on the condonation of delay.

Imposition of Exemplary Costs: To deter such "frivolous and vexatious" litigation, the Court dismissed the appeal and imposed a cost of Rs. 50,000 on the appellant, payable to the High Court Legal Services Committee.

Final Verdict: The appeal was dismissed, and the 2017 award remains executable against the appellant.