

Case Name: -Daivandnya Co-operative Credit Society Limited v. Deputy Registrar of Co-operative Societies

Citation: -2018 SCC OnLine Kar 3874

Link: <http://www.sconline.com/DocumentLink/3VA76Rii>

Judgement: -

https://www.sconline.com/print/J_2018_SCC_OnLine_Kar_3874_AIR_2018_Kar_151_2018_4_AIR_23090100380_revaeduin_20260426_124611_1_4.pdf

Summary and Conclusion: -

The background of the case, as detailed in the second image provided, involves a legal challenge by a housing society against government-initiated proceedings.

Parties and Context

Petitioner: The office bearers of Dattaprasad Co-operative Housing Society Limited, Bangalore.

Respondent: The Joint Registrar of Co-operative Societies, Bangalore Division.

The Act: The proceedings were governed by the Karnataka Co-operative Societies (KCS) Act, 1959.

The Dispute

The case centers on a show-cause notice issued on February 29, 2012, by the Joint Registrar. This notice was issued under Section 30(1) of the KCS Act, which proposes the supersession (removal) of the Society's current committee and the appointment of an Administrator to take over operations.

The Arguments

The Petitioners (the Society committee members) challenged the validity of this notice based on several points: -

Prior Resolution: They argued that the charges leveled against them had already been resolved in earlier proceedings initiated under Sections 64 and 68 of the Act (which typically involve inquiries and inspections into a society's conduct).

Compliance: They claimed a compliance report had already been filed regarding those previous inquiries. Therefore, they argued that there was no legal basis to issue a new notice to appoint an administrator.

Allegations of Bias: The background mentions previous grievances where the Society felt they were not permitted proper legal counsel and that previous Enquiry Officers were biased against them.

The State's Position

The Government/Respondent argued that the Society was intentionally stalling proceedings. They maintained that the notice was merely a "show-cause notice," and the committee members were legally required to answer the charges regarding alleged defects and mismanagement found during earlier inspections.

In short, the background is a power struggle between the Society's leadership and the regulatory authority, where the government attempted to take control of the society due to alleged mismanagement discovered during statutory inquiries.

Final Decision: Petition Dismissed

The High Court of Karnataka dismissed the Writ Petition, finding it "devoid of merits."

The Reasoning Behind the Conclusion

The court reached this decision based on several key legal observations:

Finality of the Settlement: The court noted that a dispute between the Co-operative Society and a borrower (regarding loan recovery) had already been settled. An award was passed, and the previous management of the Society had granted the borrower a waiver of penal interest.

Validity of Past Management's Actions: The borrower had cleared the loan based on that waiver. The court held that the current management cannot "rake up" an issue that has already reached finality in accordance with the law.

Internal Recourse vs. Targeting the Borrower: The court clarified that if the current management is unhappy with the actions of the previous management (i.e., the decision to waive interest), their legal recourse is to take action against the previous management directly, rather than trying to reclaim money from the borrower.

No Cause of Action: Consequently, the court ruled that the current management's attempt to recover the waived interest from the borrower did not provide a valid cause of action.

Summary of the Order

As stated in Paragraph 14 and 15 of the judgment:

"For the said reason, I am of the view that the present petition does not deserve to be proceeded further... Accordingly... the petition stands dismissed as devoid of merits. Petition dismissed."

Case Name: -Dattaprasad Co-Operative Housing Society Limited v. Joint Registrar of Co-Operative Societies

Citation: -2012 SCC OnLine Kar 9086

Link: -<http://www.sconline.com/DocumentLink/TbB0p2bf>

Judgement: -<https://share.google/EXoqCzYcA1Lj5Hduz>

Summary and Conclusion: -

Case Overview: Dattaprasad Co-operative Housing Society Ltd. vs. The Joint Registrar of Co-operative Societies

Background of the Case

The dispute arose when the Joint Registrar of Co-operative Societies (Bangalore) issued a show-cause notice to the management committee of the Dattaprasad Co-operative Housing Society under Section 30(1) of the Karnataka Co-operative Societies (KCS) Act, 1959. This notice proposed the supersession (removal) of the elected committee and the appointment of a government Administrator.

The society challenged this notice in the High Court of Karnataka, arguing that:

Repetitive Charges: The charges in the notice had already been addressed and "rectified" during previous government inquiries under Sections 64 and 68 of the Act.

Premeditation & Malice: They alleged the government was acting with "mala fides" (bad faith) and that the notice was issued with a pre-determined mind to take over the society.

Procedural History: The society pointed out a long history of litigation, claiming they had been perpetually under inquiry since 2000, which they viewed as harassment.

The State countered by arguing that the society was consistently stalling legal proceedings and that a show-cause notice is merely a preliminary step, not a final punishment.

The Court's Conclusion

The High Court of Karnataka dismissed the petition, ruling in favor of the regulatory authorities. The key findings were:

Jurisdiction of the Registrar: The court held that the Registrar has the clear legal power under Section 30(1) to issue show-cause notices if there are concerns about a society's management.

No Interference at the Notice Stage: The judge emphasized that courts should rarely interfere with a "show-cause notice." The proper legal procedure is for the society to reply to the notice and present their defense to the Competent Authority rather than rushing to the High Court.

Serious Track Record: The court noted that the society had been involved in "umpteens" legal battles and that their record did not suggest they were "fine." Specifically, the court noted that earlier inquiries in 2003 and 2008 indicated persistent issues.

Final Order: The petition was rejected as it lacked merit. The court directed the petitioners to raise all their contentions and defenses before the Competent Authority (the Registrar) instead of seeking a court intervention to quash the investigation.

Key Legal Takeaway

"The practice of High Courts entertaining writ petitions questioning the legality of show-cause notices... and retarding investigative process... is deprecated."

The court reaffirmed that unless a notice is issued with a total lack of jurisdiction, the recipient must first respond to the authority that issued it.