

KARNATAKA HIGH COURT

Diwakar Hegde J.

Vs.

Karkala Taluk Agricultural Produce Co-operative Marketing Society Ltd

W.A. 455 of 1975

(Govinda Bhat, CJ. and Srinivasa Iyengar and Diwakar Hegde, JJ.)

12.08.1975

ORDER

Govinda Bhat, CJ.

1. This appeal preferred against the order d/25-6-1975 made in WP.2991 of 1974 by Venkataramiah, J, raises the question whether the decision of the Registrar under sub-sec (3) of Section 70 of the Karnataka Co-operative Societies Act, 1959 (hereinafter called 'the Act') is open to revision under S. 107 of the Act.

2. The matter arises in this way: There was an agreement between the first respondent, Karkala Taluk Agricultural Produce Co-operative Marketing Society Ltd. (hereinafter called 'the Society'), and the appellant for hulling paddy. Dispute arose out of the said agreement between the Society and the appellant, which was referred by the Registrar to an Arbitrator for adjudication under Sec. 70 of the Act. The appellant, inter alia, raised the objection that the dispute is one which does not fall within the scope of S.70, and therefore, the Registrar had no jurisdiction to refer the dispute to the Arbitrator and the Arbitrator has no jurisdiction to adjudicate on the said reference. The Arbitrator having rightly expressed the view that he cannot adjudicate on the question of jurisdiction, the appellant filed an application before the Registrar under sub-sec(3) of S.70 to, hold that the dispute is one not touching the constitution, management or business of the society. On the said application, the Registrar, by order dt.23-7-1973, overruling the objection of the appellant, decided that the dispute is one which has to be referred for adjudication under Sec .70.

3. Against the said order, the appellant preferred a revision petition before the Karnataka Co-operative Appellate Tribunal in Rev Petn. 48/1973. Objection was raised by the Society to the maintainability of the revision petition. The Tribunal heard the matter and, by order dt.7-5-1974, held that the revision petition was maintainable. Aggrieved by the said order, the Society preferred WP.2991 of 1974 before this Court Venkataramiah, J., before whom the writ petition

came up for disposal, allowed the writ petition and quashed the order of the Tribunal on the reasoning which may be stated in the words of the learned Judge:

" It is clear from S. 167 of the Act that the Tribunal can entertain a revision petition only in respect of certain proceedings in which an appeal would lie to it. S. 105 of the Act sets out orders and decisions against which an appeal would lie to the Tribunal. An order passed under sub-sec(3) of S.70 of the Act is not one of the orders enumerated under S. 105 of the Act. The Tribunal, therefore, could not entertain the revision petition against the order passed by the the Deputy Registrar under sub-sec(3) of S.70 of the Act."

4. Against the said order this appeal has been preferred.

5. Sub-sec(3) of S.70 of the Act, which is relevant for the purpose of the disposal of this appeal reads :

" If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any Court."

6. The argument of Sri M. Gopalakrishna Shetty, learned Counsel for the appellant, is that sub-sec (3) of S. 70 of the Act provides that the decision of the Registrar is final in that it only bars an appeal but does not bar a revision under S. 107 of the Act. The argument of the learned Counsel is clearly untenable.

7. The Act is a complete code by itself. It has created a special machinery for adjudication of disputes between a Co-operative Society and its members, past members etc, with regard to matters specified in S.70 of the Act. In regard to disputes mentioned in S.70 the jurisdiction of the Civil Court is excluded, and it is the machinery created by the Statute alone that is competent to adjudicate. The Act provides for an appellate and revisional forum by constituting a Tribunal to which an appeal lies under S.105 and a revision under S.107 of the Act. The Act states the matters in which an appeal lies and the matters in which d revision lies. Sub-sec (3) of S.70 which confers the jurisdiction on the Registrar to decide the question whether the dispute falls under S.70, makes his decision thereon final, and it also provides that it shall not be called in question in any Court. The object of the decision of the Registrar being made final, is quite obvious. The policy underlying the Act is that the jurisdiction of the Civil Courts with respect to disputes falling under S.70 shall be excluded and that such disputes shall he decided by the machinery created by the Act. Therefore, the Legislature by sub-sec(3) of S.70 has not only provided the authority who shall decide the dispute if one should arise relating to the jurisdictional issue heat also made the decision of the Registrar thereon final.

8. It will be useful to refer, in this connection, to S. 188 of the Sea Customs Act, 1878, which states that " every order passed in appeal under the said section shall, subject to the Power of revision conferred by S.191, be final". (Underlining italics is ours). Under the scheme of the Sea Customs Act, there is provision for appeal against an order of adjudication and further revision to the Central Board of Revenue or the Central Government.

9. If the intention of the Act was that the decision of the Registrar under Sub-sec (3) of S. 70 of the Act shall be final subject to the power of revision under S. 107, then the section would have so stated and it should have been worded like S.188 of the Sea Customs Act. When S.70(3) says that the decision of the Registrar shall be final, it is not open either to appeal or revision under the Act.

10. In our opinion, the learned single Judge should have rested his decision on the ground that on a true interpretation of sub-sec(3) of of the Act, the decision of the Registrar is final under the Act.

11. It was also contended by Sri Gopalakrishna Shetty, learned Counsel, that the appellant is not liable to the society in his individual capacity. The said contention is one that can be raised before the Arbitrator and does not arise for decision in this appeal.

12. For the reasons fated above, we reject this appeal.
Appeal rejected.