

RESERVED ON : 17.04.2026

PRONOUNCED ON : 10.07.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT APPEAL NO. 313 OF 2018 (CS-RES)

BETWEEN:

SRI P.K.CHANDRAN,
S/O LATE N.K.MANI IYER,
AGED ABOUT 61 YEARS,
R/A NO.145, 'AMMA',
DODDABOMMASANDRA,
VIDYARANYAPURA POST,
BENGALURU - 560 097.

...APPELLANT

(BY SRI.M.R.RAJAGOPAL., SENIOR ADVOCATE FOR
M/S.NITHYA SAMPATH.K., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REP. BY ITS PRINCIPAL SECRETARY
TO GOVERNMENT,
DEPARTMENT OF CO OPERATION,
GOVERNMENT OF KARNATAKA,
6TH FLOOR, M.S.BUILDING,
BENGALURU - 560 001.
2. THE JOINT REGISTRAR OF COOPERATIVE SOCIETIES,
BENGALURU REGION,
PAMPAMAHAKAVI ROAD, CHAMARAJPET,
BENGALURU - 560 018
PRESENT ADDRESS: 'SAHAKARA SOUDHA',

146, 8TH CROSS, MARGOSA ROAD,
BENGALURU - 560 003.

3. THE DEPUTY REGISTRAR OF
CO-OPERATIVE SOCIETIES,
BENGALURU DISTRICT-I,
MALLESHWARAM CO-OPERATIVE
SOCIETY BUILDING, 'SAHAKARA SOUDHA'
146, 8TH CROSS ROAD,
MARGOSA ROAD, MALLESHWARAM,
BENGALURU - 560 003.
4. THE SIMPSON & GROUP OF COMPANIES
EMPLOYEES' WHOLESALE CO OPERATIVE
SOCIETY LIMITED,
HAVING ITS REGISTERED OFFICE AT NO.139,
INFANTRY ROAD, BENGALURU - 560 001,
REP. BY ITS LIQUIDATOR,
PRESENT ADDRESS: 'SAHAKARA SOUDHA',
146, 8TH CROSS, MARGOSA ROAD,
BENGALURU - 560 003.
5. SRI K.BALAMURALI
S/O KRISHNAMURTHY,
AGED ABOUT 58 YEARS,
R/A NO.16, 3RD CROSS,
NEAR GUDDAHALLI,
BENGALURU - 560 026.
6. SMT H.N.VEDAVATHI,
W/O LATE R.MUNISHWARAIAH @ R.M.ESHWAR,
AGED ABOUT 58 YEARS,
R/A NO.1963, 3RD CROSS,
T.DASARAHALLI. O.M.C.COLONY,
JALAHALLI WEST,
BENGALURU - 560 057.

...RESPONDENTS

(BY SMT.PRATHIBHA.R.K., AGA FOR R1 TO 3;
R4 - SERVED AND UNREPRESENTED;
V/O/D 14.02.2020 NOTICE TO R5 IS HELD SUFFICIENT;
V/O/D 04.06.2019 NOTICE TO R6 IS HELD SUFFICIENT)

THE WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO i)SET ASIDE THE ORDER DATED 28.11.2017 PASSED BY THE LEARNED SINGLE JUDGE IN W.P.NOS.13555-556/2012 ii)CONSEQUENTLY ALLOW W.P.NOS.13555-556/2012 FILED BY THE APPELLANT HEREIN AND GRANT THE RELIEF AS PRAYED FOR THEREIN.

THIS APPEAL HAVING BEEN RESERVED FOR JUDGMENT COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT IS DELIVERED/ PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE T.M.NADAF

CAV JUDGMENT

(PER CURIAM)

Heard the learned Senior counsel for the appellant and learned Additional Government Advocate appearing for the respondent Nos.1 to 3.

2. This Writ Appeal seeks the following reliefs:-

- i. Set aside the order dated 28.11.2017 passed by the learned single Judge in W.P.Nos.13555-56/2012;

- ii. Consequently allow W.P.Nos.13555-56/2012 filed by the appellant herein and grant the relief as prayed for therein;
- iii. Pass such other order or direction as this Hon'ble Court deem it fit and proper in the facts and circumstances of the case and allow the Writ Appeal with costs, in the ends of justice and equity.

3. The background of the case is that, an enquiry was initiated against the appellant and one Sri.R.Munishwaraiah, who is the deceased husband of respondent No.6, in respect of charge sheet No.SGS/907/93-94 dated 20.12.1993. The charges against them were:-

1. Misappropriation of the society's funds.
2. Unauthorised absence form duty.
3. Dishonesty in discharging the duty.
4. Criminal breach of Trust and
5. Act subverse of discipline.

4. The Enquiry Officer, one Mr.B.K.Nagaraj, absolved the aforesaid employees of Charges No.2, 3 and 5, and directed reinstatement of the charge-sheeted employees in their original post as on the date of their suspension with continuity of service with back wages. They were also found eligible for subsistence allowance including the arrears.

5. With regard to charges No.1 and 4, it was observed that there is a stay order. The Joint Registrar of Co-operative Societies and the Liquidator by means of an order dated 26.02.2007 accepted the report of the enquiry submitted by Sri.B.K.Nagaraj, exonerated them from the charges levelled. The period of suspension was directed to be treated as 'On Duty'. They were also found entitled to continuity of service with back wages.

6. It is contented by the learned counsel for the appellant that on 05.05.2007, an order was passed by the Liquidator setting aside the proceedings taken earlier. This Order was challenged before the Joint Registrar of Co-operative Societies in proceedings under Section 70 of the

Karnataka Co-operative Societies Act, 1959¹. By means of an order dated 05.10.2017, the dispute raised by the appellant and another was rejected, that is to say, the Order dated 05.05.2007 setting aside the proceedings of the enquiry, was set aside.

7. The aforesaid order dated 05.10.2007 passed by the Joint Registrar was challenged by the appellant and the aforesaid Sri.R.Munishwaraiah, before the Karnataka Appellate Tribunal, by means of Appeal No.840/2007. By means of Judgment dated 27.03.2012, the Appeal No.840/2007 was allowed by setting aside the order dated 05.10.2007 passed by the Joint Registrar and the proceedings/order dated 05.05.2007, passed by the Liquidator.

8. The Liquidator challenged the aforesaid order of the KAT dated 27.03.2012 in W.P.No.41711/2013 (CS-RES). By means of judgment dated 28.03.2019, the order dated 27.03.2012 passed by the KAT in Appeal No.840/2007 was quashed and the earlier order passed by

¹ Act of 1959

the Liquidator on 05.05.2007, in setting aside the order passed by the incharge Liquidator in accepting the report of the earlier Enquiry Officer B.K.Nagaraj, was upheld and consequently, a fresh enquiry was ordered against the appellant and the aforesaid R.Munishwaraiah by means of order dated 17.05.2007, was required to be given effect to.

9. The matter before the learned Single Judge in Writ Petition No. 13555-56/2012 was in respect to the order passed by the Deputy Registrar of Co-operative Societies on 31.03.2003, in a dispute filed by the Honorary Secretary of the Co-operative Society under Section 70(b)(8) of the Act of 1959 against the appellant, the aforesaid R.Munishwaraiah and one K.Balamurali, in which an order was passed for recovery of a sum of Rs.12,21,554.09/-, which was allegedly misappropriated by the appellant and others. By the order impugned before the learned Single Judge dated 31.03.2003, the appellant and others have been jointly and severally held liable to pay the amount of Rs.12,21,554.09/- along with 18% interest thereon.

10. By means of the impugned order passed by the learned Single Judge, the Writ Petition filed by the appellant and respondent No.6 challenging the aforesaid order dated 31.03.2003, which was confirmed by the KAT in Appeal No.585/2003 by its judgment dated 06.04.2010, was challenged. The learned Single Judge found that the award passed by the Deputy Registrar and the judgment of the Tribunal reflects that the pleadings and defence raised by the petitioners were rightly appreciated on the basis of evidence recorded and therefore, the concurrent findings recorded by the Deputy Registrar and the Tribunal, required no interference and accordingly dismissed the Writ Petition.

11. The short contention of learned counsel for the appellant, which finds acceptance by this Court is that, given the judgment of the learned Single Judge in the aforementioned Writ Petition No.41711/2013, the proceedings pursuant to the audit initiated under the provisions of Sections 63, 64 and 65 of the Act of 1959, had not attained finality. Those proceedings were in

relation to the very same recovery of the amount of Rs.12,21,554.09/-.

12. Learned Senior counsel further submits that subject matter involved in W.P.No.41711/2013 and the subject matter of misappropriation against which an order of recovery passed, which is subject matter of the appeal are one and the same i.e. Rs.12,21,554.09 ps. The dispute in W.P.No.41711/2013 was that the in-charge Liquidator accepted the report of Enquiry Officer, which was in favour of delinquents and exonerated them. Thereafter the original Liquidator appointed, recalled the order passed by the in-charge Liquidator by means of his order dated 05.05.2007. Thereafter a fresh Enquiry Officer has been appointed to conduct fresh enquiry against the petitioner and another by means of order dated 17.05.2007. That was the subject matter before the Joint Registrar of Co-operative Society by raising a dispute under Section 70. The dispute raised having been dismissed, an appeal was filed by the petitioner before the KAT in Appeal No.840/2007. The KAT by means of its order dated

27.03.2012 allowed the appeal and set aside the order passed by the Liquidator. The Writ Court in W.P.No.41711/2013 set aside the order in the appeal passed by the KAT dated 27.03.2012, upholding the order passed by the Liquidator, ordered fresh inquiry against the appellant herein and another and directed the respondent No.4-S.R.Naik, who has been appointed as Enquiry Officer to take up the matter i.e., enquire and dispose of the same within one year from the date of commencement of the enquiry, reserving liberty to the contesting respondent therein and another to take all permissible defence to establish their innocence.

13. Though the order came to be passed in 2019, however, nothing placed before us regarding the enquiry conducted after remand order by the Writ Court. However, we having found some force in the argument of learned Senior counsel that the subject matter in this appeal i.e., recovery of amount on the alleged misappropriation as well as the departmental inquiry on the misappropriation of amount having some nexus between each other requires

consideration. There are two orders passed by the Writ Court, one in the dispute raised and award passed for recovery of amount and another in respect of departmental enquiry which was ended in exoneration and thereafter recalling the order of exoneration and appointing fresh Enquiry Officer for conducting fresh departmental inquiry.

14. We are of the considered opinion that, the result of the enquiry as against the petitioner and another has a bearing on the *lis* involved in this appeal in view of the order passed by the learned Single Judge in W.P.No.41711/2013, while remanding the matter to the Enquiry Officer. In that view of the matter, till the enquiry has to be held and concluded, the award dated 31.03.2003 in Dispute No.JRB/DIS/30/1993-94, passed by the Deputy Registrar of Co-operative Societies-1, Bangalore Urban District, Bangalore (*Annexure-A*), shall be kept in abeyance, if not the enquiry has already been conducted and concluded as per the direction stated afore.

15. As nothing has been placed before us regarding the status of the enquiry, as to whether the said enquiry

ordered while remanding the matter to the Enquiry Officer, by order dated 28.03.2019 in W.P.No.41711/2013 has been held and concluded, we deem it appropriate to direct the Authorities to issue intimation to respondent No.4-S.R.Naik, who has been appointed as Enquiry Officer, and in the event if he is not available, appoint any fresh Enquiry Officer to hold enquiry in terms of the directions of learned Single Judge in W.P.No.41711/2013 and complete the same within six months after commencement of the enquiry. The enquiry should be commenced within one month from today, after affording proper opportunity to both the sides to put forth their defences in terms of the directions issued by the learned Single Judge in the aforesaid writ petition.

16. Till the outcome of the enquiry, if not already concluded, in terms of the order in W.P.No.41711/2013 stated supra, the award dated 31.03.2003 in Dispute No.JRB/DIS/30/1993-94, passed by the Deputy Registrar of Co-operative Societies-1, Bangalore Urban District,

Bangalore, which is the subject matter of Writ Court as well as this Court, shall be kept in abeyance.

17. With these observations, the present appeal stand ***disposed of***.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**

TKN/RR