

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

* * * *

WRIT PETITION Nos.22770 and 22869 of 2015

W.P.No.22770 of 2015

Between:

Bureau of Economics & Statistics Employees Mutually Aided Coop.
Housing Society Limited.

.. Petitioner

And

The Cooperative Tribunal, Chandra Vihar Building, Nampally,
Hyder rep. by Registrar and others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 07-08-2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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|---|--------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Lordship wish to
see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION Nos.22770 and 22869 of 2015

COMMON ORDER:

These two Writ Petitions are filed by one and the same petitioner and they are being disposed of by a common order at the stage of admission.

The petitioner is a Society registered under the provisions of the Andhra Pradesh Cooperative Societies Act, 1964 (the Act) which was later converted under the provisions of the Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995. The Society was formed for the development of house sites to be allotted to its members. As per byelaw No.42(13) of the byelaws of the petitioner – Society, a member, who was allotted a plot by the Society, cannot transfer that plot without approval/concurrence of the Society. While respondent Nos.2 and 3 in W.P.No.22770 of 2015 were allotted plots, second respondent was allotted plot in W.P.No.22869 of 2015 and transferred to respondent Nos.3 and 4. Initially, the Society filed an application before the Deputy Registrar of Cooperative Societies, under Section 61 of the Act, for resumption of plots held by respondents. When the said applications were dismissed, the Society carried the matter in appeal to the Cooperative Tribunal which remanded the matter to the arbitrator for a fresh enquiry. Thereafter, the petitioner - Society got converted under the provisions of the Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995. As such, O.P.Nos.87 and 86 of 2012 were filed before the Cooperative Tribunal, Hyderabad and the said applications were dismissed

holding as follows:

“It is seen from the record that the Society which was registered under the Andhra Pradesh Cooperative Societies Act, 1964 was converted and registered under the Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995 on 13.08.2008. Copy of the bye-law of the Society is not filed before this Tribunal. It is seen that the Society allotted the plot to Sri G.Purushotham Rao, respondent No.1 herein, and the same was sold without constructing dwelling house to respondent No.2 herein for a sale consideration of Rs.4,90,000/- by respondent No.1 and the sale agreement was registered on 01.08.1998. It is observed that the petitioner Society kept quiet from 1998 when the property was purchased by respondent No.2 and started action to resume the plot in the year 2004. If this fact was not in the knowledge of the Society then it is a failure on the part of the Society and reflects on its internal administration. The respondents are not at all responsible for the failure of the Society at this stage i.e. after almost 17 years. Now the Society is registered under the Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995 and before approaching the Tribunal for resolution of any dispute u/s 37 of the Act, the matter has to be referred to an Internal Dispute Resolution Committee, in terms of Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995. There is nothing before this Tribunal to show that the dispute was referred to the Internal Committee and the committee could not resolve the same. The circular instructions issued by the Registrar u/s.4(2) of the Andhra Pradesh Cooperative Societies Act, 1964 are not applicable to Societies registered under the Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995. It is pertinent to comment that the role of the Cooperative Society ends with allotment of plot and issuing of NOC solely depends upon the dues if any to be collected from the previous allottee. Once there are no dues or the dues are settled, the Society is bound to issue NOC. In the instant case, though NOC is not taken by the vendor, this fact alone will not confer any right on the Society to initiate action for resumption of the plot, if the vendor/vendee is ready to settle the dues, if any.”

Learned counsel for the petitioner relied on a decision of the Supreme Court in **New India Cooperative Housing Society Limited v. Municipal Corporation of Greater Mumbai**^[1].

New India Cooperative Housing Society Limited

(1 supra) arose out of a lease granted in favour of a party by the Society and the lease deed contained a clause with regard to

obtaining NOC from the Society before making any structural alterations and additions by the lessee in the building or buildings on the demised premises.

The facts of the aforesaid case are not applicable to the instant case as it relates to transfer of land which is absolutely different.

This Court is of the opinion that once a plot was allotted validly to a member, the said member is free to alienate land without any restriction imposed by the Society. In the circumstances, the petitioner failed to show any ground challenging transfer of land by the allottee in favour of the third party. Hence, the Writ Petitions are not maintainable and the Tribunal rightly dismissed the O.Ps. filed by the petitioner.

The Writ Petitions are, accordingly, dismissed at the admission stage.

As a sequel thereto, miscellaneous applications, if any, also stand disposed of. No order as to costs.

A. RAMALINGESWARA RAO,J

Date:07.08.2015
usd

[\[1\]](#) (2008) 9 SCC 694