

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 506 OF 2010**

The Secretariat Staff Co-operative Credit Society Ltd., a Co-operative Society registered under the Maharashtra Co-operative Societies Act, 1960 as applied to the State of Goa and now governed under the Goa Co-operative Societies Act, 2001, having its office at Secretariat, Panaji, Goa, represented through its Secretary, Shri Raju Vishram Gawas.

.... Petitioner

Versus

1. The Registrar of Co-operative Societies, having his office at Sahakar Sankul, EDC Complex, Patto Plaza, Panaji-Goa.
2. Shri Mukund V. Pai, Advocate, having his office as S-4, Second Floor, Patto Centre Building, Patto, Panaji-Goa.
3. Shri Ramesh Bhanastarkar, major of age, resident of Government Quarters, A/3/1 Bhatlem, Panaji, Goa.
4. Shri S.M. Kadri, major of age, resident of Dattaguru Prasad Bldg., 1st Floor, Cabeca, St-Cruz, Tiswadi, Goa.

5. Shri Ajit Pawaskar, major of age, resident of Government Quarters, Altinho-Panaji.
6. Shri Allan Pinto, major of age, resident of H. No. 1148, Pedda, Margao-Goa-403 601.
7. Shri G.D. Kenni, major of age, resident of Government Quarters, 21-A, 'C' Type, Patto Colony, Panaji.
8. Shri A.P. Naik, major of age, resident of House No. 160, Near Sangam Lodge, Mala, Panaji.
9. Shri Pushkar V. Desai, major of age, residing near Vimleshwar Temple, P.O. Revona via Quepem, Goa.
10. Shri Agnelo G.D.S. Pereira, major of age, resident of House No. 211, Sinquetim, Navelim, Salcete-Goa.
since deceased, through his legal representative,
(i) Mrs.Jency L. D'Costa, Resident of House No. 211, Sinquetim, Navelim, Salcete-Goa.
11. Shri Ravindra B. Sawant, major of age, resident of Shakarwadi, Taleigao-Goa.

12. Shri Vishnu D. Naik, major of age, resident of House No. S-42, Reis-Magos, Verem, Bardez-Goa.

13. Shri A.L. Azavedo, major of age, resident of Cabesa, St. Cruz, Goa.

since deceased, through his legal representatives:

- (i) Mrs. Santana G.E. Azavedo,
- (ii) Shri Remmie Jacinto Azavedo,
- (iii) Shri Leslie Azavedo,

All major of age, residents of 387/A, Cabesa, St. Cruz, Tiswadi-Goa.

14. Shri Santosh L. Bicholkar, major of age, resident of C-28, Government Quarters, Altinho, Panaji-Goa.

.... Respondents

Mr. A.V. Nigalye, Advocate for the Petitioner.

CORAM:- C.V. BHADANG, J.

DATE:- 14th September, 2016.

ORAL JUDGMENT:

The challenge in this petition is to the order dated 26.04.2008 passed by the Authorised

Person and the Nominee of Registrar of Co-operative Societies, Government of Goa, whereby the Dispute Application No. 6/2004/ARCS/CZ filed by the petitioner-Society has been dismissed for non-prosecution.

2. It is submitted by Mr. Nigalye, the learned Counsel for the petitioner that the Registrar's Nominee had ceased to have jurisdiction to entertain the dispute on account of coming into force of Goa Co-operative Societies Act, 2001 (the Act of 2001, for short) and the Rules framed thereunder. It is thus contended that the impugned order is without jurisdiction. Mr. Nigalye, the learned Counsel for the petitioner pointed out that by an application dated 15.05.2008, the order was sought to be recalled, however, no orders were passed on the same. The learned Counsel for the petitioner has referred to the order dated 15.03.2007 and the notification dated 22.01.2008 in order to submit

that the Registrar's Nominee had no authority to entertain the dispute, on 26.04.2008, the date on which the impugned order is passed.

3. I have heard the learned Counsel for the petitioner. None appears for the respondents.

4. The Registrar's Nominee (Shri Mukund V. Pai) has passed the following order on 26.04.2008:

*"Miss Minal Naik/Adv. Nigalye
absent.*

Of 2, 3, 6, 7, 8, 9, 10 & 12 absent.

*Disputant called out for the third
time but absent till 4.40 p.m.*

*The matter is dismissed for non
prosecution.*

The file stands closed."

5. It appears from the order dated 15.03.2007 passed by the Registrar of Co-operative Societies, Goa, that in exercise of powers under Sub-Section (1) of Section 93 of the Maharashtra Co-operative

Societies Act, 1960, (which was then in force in Goa) read with Sub-Rule (1) of Rule 73 of the Co-operative Societies Rules, 1962, the Registrar of Co-operative Societies, Goa had extended the term of appointment of Shri Mukund V. Pai, for the period of one year from 01.04.2007 to 31.03.2008 or till the provisions of the Act of 2001 and the Rules thereunder are brought into force, whichever is earlier.

The notification dated 22.01.2008 would show that the Act of 2001 and the Rules framed thereunder were brought into force w.e.f. 26.01.2008. Thus, the conjoint reading of order dated 15.03.2007 passed by Registrar of Co-operative Societies and the notification dated 22.01.2008 would clearly show that on and from 26.01.2008, the Registrar's Nominee would cease to have jurisdiction to entertain the dispute. Even otherwise, the period of appointment of Shri Mukund V. Pai was extended till 31.03.2008 or till the provisions of the Act of 2001 and Rules

framed thereunder are brought into force, whichever is earlier. Thus, the impugned order passed on 26.04.2008 would be without jurisdiction and will have to be set aside.

6. In such circumstances, the following order is passed:

O R D E R

(a) The petition is allowed.

(b) The impugned order dated 26.04.2008 is set aside.

(c) Dispute Application No. 6/2004/ARCS/CZ, is restored to the file of the Registrar of the Co-operative Societies, who shall decide the same in accordance with law.

(d) Needless to mention that it would be open to the Registrar of Co-operative Societies to make over the dispute to a competent Officer/Registrar's Nominee, for deciding the same in accordance with law.

(e) Parties to appear before the Registrar of Co-operative Societies on 03.10.2016.

(f) Rule is made absolute, in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

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