

IN THE HIGH COURT OF JUDICATURE AT
HYDERABAD

FOR THE STATE OF TELENGANA AND THE STATE OF ANDHARA
PRADESH

WP.No.10598 of 2015

Between:

Iragam Reddy Thirupal Reddy,
S/o.Sri Gandhi Reddy, Aged : 68 Years,
R/o.Pullareddipet, Duvvur Mandal,
YSR Kadapa District, and others.

... Petitioners

And

State of Andhra Pradesh,
Represented by its Principal Secretary
Agriculture & Co-operation Department,
A.P. Secretariat, Hyderabad – 500 022, and others.

...Respondents

Date of Judgment pronounced : 01.03.2016

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA
RAO

1. Whether Reporters of Local
newspapers :
May be allowed to see the judgments?

2. Whether the copies of judgment may be

marked :
to Law Reporters/Journals:

3. Whether Lordship wishes to see the fair copy :

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

WP.No.10598 of 2015

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\$State of Andhra Pradesh,
Represented by its Principal Secretary and others.

...Respondents

< **GIST:**

> **HEAD NOTE:**

! Counsel for the petitioners : Sri A. Satya Prasad, Senior
Counsel
appearing for Sri B. Prakash,
along with
Sri P.Veera Reddy, Senior
Counsel;
and Sri V. Venkata Ramana Senior
Counsel.

^ Counsel for respondent
Nos.1 to 3 and 7 : Government Pleader for Co-
operation.

^ Counsel for
4th respondent : Sri P.S.P. Suresh Kumar.

^ Counsel for respondent

nos.8 to 15
Senior

: Sri P. Gangaiah Naidu,

Counsel appearing for
Smt. B. Vijayalakshmi.

^Counsel for 6th respondent : -Nil-

? Cases referred

1. AIR 1986 AP 134
2. 1988 (1) ALT 797
3. (2013) 7 SCC 25
4. 2010 (3) ALD 526 (DB)
5. (1994) 1 ALT 363
6. (2009) 3 SCC 553
7. (2010) 5 SCC 1
8. AIR 1974 A.P 49 (DB)
9. (2009) 3 SCC 553
10. (2010) 5 SCC 1
11. AIR 1957 SC 23
12. AIR 1999 SC 1225

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

WP.No.10598 of 2015

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ORDER:

In this Writ Petition two orders - both dt.09.04.2015 viz., one passed by 3rd respondent forming an opinion that there is no Managing Committee for 4th respondent Society and appointing a person in-charge to manage the affairs of said Society, and another order passed by 2nd respondent declaring that 1st petitioner ceased to be the delegate of 4th respondent-Society in the 5th respondent-Financing Bank and Chairman of 5th respondent-Bank and consequently nominating the Vice-Chairman of 5th respondent-Bank as the Chairman of the said bank, are

questioned.

THE BACKGROUND OF THE LITIGATION

2. The petitioner nos.1 to 6 are Members of the Managing Committee of 4th respondent-Society and 1st petitioner is also its Chairman. By virtue of being the Chairman of 4th respondent-Society, the 1st petitioner automatically became a delegate of the said Society in the 5th respondent, its financing Bank. He also became the Chairman of the Managing Committee of 5th respondent-Bank. These events happened in 2013.

3. The 6th respondent, who is a former Member of Legislative Assembly and who is alleged to belong to a political group opposed to the petitioners, addressed a letter dt.16.03.2015 to the District Collector, Kadapa making certain allegations in relation to the running of affairs of 4th respondent-Society, and sought enquiry into the said allegations against Directors/Members of the Managing Committee of 4th respondent-Society.

4. On receipt of the said complaint, the District Collector directed the 2nd respondent to cause an enquiry made into the allegations leveled by 6th respondent against the Directors of 4th respondent-Society.

5. The Chief Executive Officer of 4th respondent-

Society then addressed a letter to the Divisional Co-operative Officer, Proddutur informing that corrective measures were taken pursuant to an Inspection Report under Section 52 of The Andhra Pradesh Co-operative Societies Act, 1964 (**for short, 'The Act'**). He also intimated about the action taken by 4th respondent-Society to the General Body of the said Society in a meeting held in this behalf and submitted rectification report.

6. Thereafter, 3rd respondent issued a notice dt.20.03.2015 to the Chief Executive Officer of the 4th respondent-Society and to 1st petitioner, who was the Chairman/President of 4th respondent-Society, stating that they were responsible for the irregularities and called for their explanation within one (01) week from the date of receipt of the said notice. Another notice was also issued by 3rd respondent on 20.03.2015 to 1st petitioner calling his explanation in respect of another allegation mentioned therein.

7. On 08.04.2015, the 1st petitioner submitted his explanation to the first notice denying the allegations therein and stating that he did not commit any irregularity, and even otherwise he cannot be held responsible. He requested 3rd respondent to drop further action against him. He also submitted another explanation to the other

show-cause notice issued by 3rd respondent.

8. According to petitioners, on the same day, the Managing Committee of 4th respondent-Society met. Eleven of its Directors attended the meeting and they unanimously passed a resolution about the stand of the Society with reference to notices dt.20.03.2015 issued by 3rd respondent and also approving the actions taken by the Managing Committee with regard to attending to the defects as pointed out in the inspection held under Section 52 of the Act.

9. Out of the thirteen Managing Committee Members in the Managing Committee of 4th respondent-Society it appears seven Members (who are respondent no.s 8 to 14 in the Writ Petition) tendered their resignations on 09.04.2015, and allegedly submitted their resignation letters to the Chief Executive Officer of 4th respondent-Society.

10. The Chief Executive Officer of 4th respondent-Society is alleged to have addressed a letter dt.09.04.2015 to 3rd respondent enclosing copies of resignations allegedly submitted by the seven Members of the Managing Committee to him. It is alleged that on receipt of the letter dt.09.04.2015 of the Chief Executive Officer of 4th respondent-Society and the resignation

letters of seven Managing Committee Members (who are impleaded as respondent nos.8 to 14 in the Writ Petition), the 3rd respondent examined respondent nos.8 to 14 in person, recorded their statements, took their specimen signatures and also verified their signatures in the Minute Book of 4th respondent-Society at the time of elections. Having thus satisfied himself about the voluntariness of the resignations, he opined that there is no Managing Committee of the 4th respondent-Society to approve resignations tendered by respondent nos.8 to 14, and it is not possible to call for a General Body meeting for the purpose of conducting elections of the Members of the Managing Committee. Thereafter, by exercising powers delegated to him vide G.O.Ms.No.34 F & A (Co-op) Department dt.16.01.1989, and also under Section 32(7) (a)(i) of the Act, the 3rd respondent vide Order in Rc.No.531/2015-C2 dt.9.4.2015 appointed the Assistant Registrar attached to the Office of the Sub-Divisional Co-operative Officer, Proddatur as person in-charge to manage the affairs of 4th respondent-Society for a period of six months or till elections are conducted to the Managing Committee of 4th respondent-Society, whichever is earlier. This is one of the orders impugned herein.

11. Taking note of this order dt.09.04.2015 of 3rd

respondent, the 2nd respondent also passed an order in Rc.No.1281/2015/C2 dt.09.04.2015 observing that 1st petitioner, who is President/Chairman of 4th respondent-Society was a delegated Member to the 5th respondent-Society and was acting as Chairman of 5th respondent-Financing Bank; as per proviso to Section 21-A of the Act, any delegate of a Society sitting on a Managing Committee of any other Society would cease to be such delegate if the Committee which elected him as a delegate was superseded; that delegation of 1st petitioner ceased, since the Managing Committee of 4th respondent-Society was superseded as per the proceedings dt.09.04.2015 of 3rd respondent and the Assistant Registrar attached to the Office of the Sub-Divisional Co-operative Officer, Proddatur was appointed as person in-charge under Section 32(7)(a)(i) read with Rule 23-AAA (5) of the Act; and therefore, one Anjaneyulu, Vice-Chairman of 5th respondent-Financing Bank is appointed to act as Chairman of 5th respondent-Bank till elections are conducted to the post of Chairman. This is the other order impugned in the Writ Petition.

12. Heard Sri A. Satya Prasad, Senior Counsel appearing for Sri B. Prakash, counsel for petitioners along with Sri P. Veera Reddy, Senior Counsel and Sri V. Venkata Ramana Senior Counsel for

petitioners, the learned Government Pleader for Co-operation for respondent nos.1 to 3 and 7, Sri P.S.P. Suresh Kumar, counsel for 4th respondent-Society and Sri P. Gangaiah Naidu, Senior Counsel appearing for Smt. B. Vijayalakshmi, counsel for respondent nos.8 to 15. None appears for 6th respondent even though notice in the Writ Petition was served on him.

THE CONTENTIONS OF COUNSEL FOR PETITIONERS

13. Sri A. Satya Prasad, Senior Counsel contended that the interim orders passed by respondent nos.2 and 3 are contrary to provisions of the Act and Rules made thereunder and have, in fact, been passed at the instance of 6th respondent; that the order passed by 3rd respondent dt.09.04.2015 is contrary to law, firstly because the resignations submitted by respondent nos.8 to 14 could not have been acted upon since they were not submitted as per Rule 23-AAA of the Rules framed under the Act to the Chief Executive Officer of 4th respondent-Society; that the resignations had been directly submitted to 3rd respondent; and it was wrongly recorded in the impugned order that the resignations of respondent nos.8 to 14 were submitted through the Chief Executive Officer of 4th respondent-Society.

14. He contended that the Chief Executive Officer was obligated to place the resignations before the

Managing Committee and the Managing Committee has to accept or reject the resignations as provided in Rule 23-AAA (3) of the Rules framed under the Act; that Clause (5) of Rule 23-AAA has no application; that even if majority of members of Managing Committee of 4th respondent-Society submitted resignations, they do not come into effect automatically if they were not submitted in conformity with Sub-Rule (3) Rule 23-AAA i.e., by Registered Post Acknowledgment Due or given to the Chief Executive Officer/President.

15. He contended that, assuming for the sake of argument, without conceding, that the Chief Executive Officer of 4th respondent-Society did receive the resignations from respondent nos.8 to 14, it was incumbent on him to call a meeting of the Managing Committee as per Rule 21-A(4); if in the said meeting convened by the Chief Executive Officer and the 4th respondent-Society there was no quorum as provided in Rule 23(2), then he ought to send a failure report to 3rd respondent; and then only the 3rd respondent could have passed any order accepting the resignations of respondent nos.8 to 14.

16. He contended that the Registrar of Societies/Deputy Registrar, after getting the resignation letters of respondent nos.8 to 14 in the present case,

himself opined that no Managing Committee exists and appointed the person in-charge and this is impermissible in law; that if the order passed by 3rd respondent is contrary to law and unsustainable, the order passed by 2nd respondent, which is based on the order passed by 2nd respondent, also goes automatically.

17. He also contended that 2nd respondent was not correct in observing that the Managing Committee of which the 1st petitioner was the President and Member had been “superseded”; that supersession of the Managing Committee of Society is provided for in Section 34 of the Act; that such supersession as contemplated under Section 34 is normally in the nature of a penalty; that in the present case, it cannot be said that the situation warranted invocation of Section 34; and in fact, no order superseding the Managing Committee of 4th respondent-Society exists; that the 2nd proviso to Section 21-A(1) cannot be invoked and the delegation of 1st petitioner as a delegate of 4th respondent-Society in the 5th respondent-Financing Bank cannot be said to have ceased, and he continues to be the delegate of 4th respondent-Society in the 5th respondent-Bank and is entitled to continue as Chairman of 5th respondent-Bank also.

18. He further contended that the order dt.09.04.2015

passed by 2nd respondent asking the Vice-Chairman of 5th respondent-Bank to act as Chairman of 5th respondent-Bank till elections are conducted to the post of Chairman, is contrary to law.

19. According to him, there is a distinction between a situation when Section 32(7)(a) of the Act would operate and a situation where Section 34(1) of the Act would operate. He relied upon the decision of a Division Bench of this Court in **Pamarthy Veeraswamy v. The Collector (Co-operation), Krishna District**^[1] in this regard. In that case, it was held that Section 32 would operate if there is no Committee at all but if there is a Committee, but it is not functioning, then Section 34 operates.

20. Sri P. Veera Reddy, Senior Counsel relied upon a decision of this Court in **V. Pedda Venkateswarlu v. The Deputy Registrar of Co-op. Societies Miryalguda and others**^[2] wherein a learned Single Judge of this Court held that an elected Director of the Managing Committee of a Society can resign by sending his resignation to the Chief Executive Officer of a Society, but it will take effect only from the date of its approval by the Managing Committee. Both counsel therefore contended that without acceptance by the Managing Committee, resignations of respondent nos.8 to 14 could not have been acted upon and a conclusion arrived at by 3rd

respondent that there is no Managing Committee, and therefore, a person in-charge cannot be appointed. Reliance was also placed on the order dt.10.03.2006 in WP.No.884 of 2006 by counsel for petitioners in which a similar view was taken that the resignations would take effect only from the date they were accepted by the Managing Committee.

21. Sri Vedula Venkata Ramana, learned Senior Counsel for petitioners, contended that none of the situations contemplated in Clauses (i) to (iv) of 2nd proviso to Section 21-A of the Act exist in the present case, and therefore, the question of 1st petitioner ceasing to be a delegate of 4th respondent-Society in the 5th respondent-Financing Bank does not arise even if a view is taken that all the resignations of respondent nos.8 to 14 are valid in law.

22. He pointed out that the order of 3rd respondent did not in fact use the word “supersede”, i.e., that the said order did not say that the Managing Committee of 4th respondent-Society had been ‘superseded’ by 3rd respondent, and when there is no such supersession, Clause (ii) of 2nd proviso to Sub-section (1) of Section 21-A cannot apply, and it cannot be held that petitioner ceased to be a delegate of 4th respondent-Society in the 5th respondent-Bank.

23. He contended that Rule 23-AAA was inserted by G.O.Ms.No.37 Agriculture and Co-operation dt.21.08.2002 and even if sub-Clause (5) of Rule 23-AAA permits a person in-charge to be appointed by a Registrar in the event of resignation of majority Members of Managing Committee, there has been no amendment to the 2nd proviso to Sub-section (1) of Section 21-A of the Act treating the same as equivalent to the supersession of a Managing Committee; since supersession intended by the Legislature in Clause (ii) of 2nd proviso to Section 21-A is the only supersession provided for in Section 34 of the Act, and since there is no such supersession in the present case, the 2nd proviso to Sub-section (1) of Section 21-A of the Act cannot be invoked at all.

24. He contended that the legally elected Board of Directors cannot be put out of Office in this manner by 3rd respondent and that on the facts of the present case, it is clear that respondent nos.2 and 3 did not function independently and had acted under the pressure of 6th respondent.

25. The counsel for petitioners lastly contended that the dictionary meaning of the word “superseded” ought not to be applied to the said term which is used in sub-clause (2) of 2nd proviso to Section 21-A of the Act and

that the only meaning which can be attributed to the said term is the one intended in Section 34 of the Act.

26. Reference was also made to decisions in **State of Madhya Pradesh and others v. Sanjay Nagayach and others**^[3], **Vancha Veera Reddy and another v. District Co-operative Officer, Nalgonda, Nalgonda District and others**^[4] and **Awari Devanna, President, Primary Agrl. Co-op. Credit Society, Kammarpalli v. The Divisional Co-operative Officer, Nizamabad District**^[5].

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THE CONTENTIONS OF GOVERNMENT PLEADER FOR
CO-OPERATION :
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27. The learned Government Pleader has produced the record and it reveals that a letter dt.09.04.2015 was sent by the Chief Executive Officer of 4th respondent-Society enclosing resignation letters of the Managing Committee Members to 3rd respondent and it also contains the resignation letters of respondent nos.8 to 14.

28. The learned Government Pleader contended that Rule 23-AAA (3) is a General rule but Rule 23-AAA (5) is a specific rule and is an exception to Rule 23-AAA (3). She contended that Rule 23-AAA (3) would operate only in a situation where a minority of the Members of a Managing Committee of a Society resigned, but cannot have any operation if a majority Members of a Managing Committee

or the entire Managing Committee Members resign. According to her, in this situation only Rule 23-AAA (5) would operate and not Rule 23-AAA (3). According to her, only in a situation governed by Rule 23-AAA (3), i.e., when minority of Members of Managing Committee resign there is a question of acceptance of resignation by the rest of the Members of a Managing Committee, but in a situation where the entire Managing Committee resigns or majority members of the Managing Committee resign, Rule 23-AAA (5) applies and in such a situation the question of acceptance of resignations by the Managing Committee would not arise.

29. She pointed out that under Rule 23 (2), the quorum for meeting of a Managing Committee would be the majority of the total Members of the Committee and in a situation where the majority of the Managing Committee Members resign, there cannot be a meeting of such a Committee without the requisite quorum to consider the question of acceptance of resignations since the available members would only be in a minority. She therefore pointed out that in such a situation, Rule 23-AAA (3) cannot be made applicable and only Rule 23-AAA (5) would apply. She therefore pleaded that in the present case, since respondent nos.8 to 14 (who constitute a majority of the Members of the Managing Committee of the 4th respondent-Society) resigned, there was nothing

wrong in the 3rd respondent appointing a person in-charge to manage the affairs of the 4th respondent-Society till elections are held to a new Managing Committee. She further pointed out that Rule 23-AAA was not on the statute book at the time when this Court had rendered the decision in **Pamarthy Veeraswamy Pamarthy Veeraswamy** (1 supra) and **V. Pedda Venkateswarlu** (2 supra), and these decisions cannot apply after Rule 23-AAA has been put on the statute book.

30. She also contended that as a consequence of the invocation and application of sub-rule (5) of Rule 23-AAA to the present case, since there is “no Committee” at all, a person in-charge was appointed by rightly invoking Section 32(7)(a)(i) and therefore the order of 3rd respondent is correct.

31. She further contended that the order of 2nd respondent dt.09.04.2015 is also correct and that Clause (ii) of 2nd proviso to Sub-section (1) of Section 21-A was rightly applied. She pointed out that the word “supersession” used in the said clause should be interpreted as per its dictionary meaning and the petitioners are not correct in contending that it should be understood only in the manner shown in Section 34 of the Act. She contended that ousting of existing Managing

Committee by a Registrar either on their own, or by operation of law under Rule 23-AAA(5) and replacing the Managing Committee by person in-charge, results in supersession of the Managing Committee even though such supersession may not arise in the manner indicated in Section 34. She therefore, contended that even the order dt.09.04.2015 of 2nd respondent is valid in law.

CONTENTIONS OF COUNSEL FOR RESPONDENT NO.S 8-15

32. Sri P. Gangaiah Naidu, Senior Counsel for respondent nos.8 to 14, supported the stand of the learned Government Pleader and contended that Rule 23-AAA (5) was framed keeping in mind situations of the nature which have arisen as in the present case, where majority of the Managing Committee Members resign or the entire Managing Committee resigns making it impossible for a meeting of the Managing Committee to be convened. For holding meeting of Managing Committee, under Rule 23(2), the quorum required under the Act should consist of the majority of the Managing Committee Members and once the majority resign, such quorum will not be there. He therefore contended that only in a situation where the minority of the Managing Committee Members resign, the question of accepting their resignations would arise and there is no question of any acceptance of resignation by the Managing Committee if the majority of the Managing Committee Members resign

or the entire Managing Committee resigns.

33. He pointed out that respondent nos.8 to 14 had categorically taken a plea that they have handed over the resignations of the Chief Executive Officer to the 4th respondent-Society and this fact is also borne out by record, and in fact, the letter of the Chief Executive Officer dt.09.04.2015 addressed to the 3rd respondent is also referred to in the impugned order passed by 3rd respondent. So there is no controversy that respondent nos.8 to 14 have tendered their resignations to the Chief Executive Officer of 4th respondent-Society and plea of petitioners that the Chief Executive Officer of the 4th respondent-Society did not receive the resignations of respondent nos.8 to 14, is a false plea.

34. He contended that once the Registrar comes to a conclusion that there is no Managing Committee, he has no option but to appoint a person in-charge under Rule 23-AAA (5), and since that was done by 3rd respondent, there is no illegality in the said action of 3rd respondent.

35. He contended that petitioners are not correct in contending that there should be an attempt to convene a Managing Committee by the Chief Executive Officer first, and after such attempt fails, the Chief Executive Officer should send the report to the Registrar asking him to

accept the resignations submitted. According to him, such a procedure is not contemplated by the Act or the Rules framed thereunder. He also pointed out that such a requirement cannot be read into the Rules in a situation where the entire Managing Committee resigns or majority of its Members resign ignoring the plain language of sub-rule (5) of Rule 23-AAA.

36. He also reiterated that the supersession spoken to in the order passed by 2nd respondent is not the supersession contemplated under Section 34, and that the dictionary meaning of the word “supersession”, i.e., placing somebody in the place of an existing incumbent, should apply. He pointed out that if the Legislature intended the term “superseded” to mean “supersession” only in the manner indicated in Section 34, Clause (2) of 2nd proviso to Sub-section (1) of Section 21-A would have said so; and that since the Legislature did not do so, it is clear that the Legislature intended that the term “superseded” used therein should have a different meaning from that contained in Section 34.

37. He contended that Rule 23-AAA was probably enacted to overcome the decisions rendered by this Court in **Pamarthy Veeraswamy** (1 supra) and **V. Pedda Venkateswarlu** (2 supra), which had taken the view that there should be an acceptance of resignation. According to him there is a clear departure in sub-rule (5) of Rule 23-

AAA from the concept of 'acceptance of resignation for it to be effective', keeping in view the impossibility of the acceptance of resignation by the residuary Members of the Managing Committee who are in a minority causing lack of quorum for even holding a meeting of the Managing Committee.

CONTENTIONS OF COUNSEL FOR 4TH RESPONDENT

38. Sri P.S.P. Suresh Kumar, counsel for 4th respondent-Society, stated that 4th respondent had filed a counter-affidavit denying that respondent nos.8 to 14 had handed over resignation letters to him and that he had forwarded the same to 3rd respondent.

REPLY ARGUMENTS OF COUNSEL FOR PETITIONERS

39. In reply, the counsel for petitioners contended that the term "supersession" has not been defined in the statute but the statute has dealt with the issue of "supersession" in Section 34 and so when the word "supersession" is used in Clause (ii) of 2nd proviso to Sub-section (1) of Section 21-A, it has to be understood only in the sense mentioned in Section 34 and in no other sense and that the dictionary meaning of the term "supersession" cannot be made applicable. According to them, the text and context of the statute should be looked into and not

the dictionary meaning. They relied upon the decisions in **Ansal Properties & Industries Ltd. v. State of Haryana**^[6] and **Lalu Prasad Yadav v. State of Bihar**^[7], in this regard.

THE CONSIDERATION BY THE COURT

40. I have noted the submissions of both sides.

41. From the contentions, the following points arise for consideration :

- (a) Whether the resignation letters of respondent nos.8 to 14 were, in fact, submitted to the Chief Executive Officer of the 4th respondent-Society by them, and whether he did send them along with a letter dt.09.04.2015 to 3rd respondent ?
- (b) If the answer to the above question is 'Yes', whether the 3rd respondent is correct in passing the impugned order dt.09.04.2015 accepting the resignations of respondent nos.8 to 14 and coming to a conclusion that there is no Managing Committee and it is necessary to appoint a person in-charge to manage the affairs of the 4th respondent-Society ?
- (c) Whether the 3rd respondent is correct in invoking Rule 23-AAA (5) read with Section

32(7)(a)(i) and not Rule 23-AAA (3) ? and

- (d) Whether the action of 2nd respondent in holding that 1st petitioner ceased to be a delegate of 4th respondent-Society in the 5th respondent-Financing Bank, is correct ?

POINT (a) :

42. There is a specific plea taken by respondent nos.8 to 14 in the counter-affidavit filed by them that they submitted their resignations to the Chief Executive Officer of 4th respondent-Society on 09.04.2015 and that with a covering letter of the same date, he forwarded those resignations to the 3rd respondent. This fact is also referred to in the order dt.09.04.2015 passed by 3rd respondent.

43. No doubt, the Chief Executive Officer filed a counter-affidavit denying that he received the resignation letters of respondent nos.8 to 14, and forwarding the same to 3rd respondent.

44. The learned Government Pleader for Co-operation has produced the record which contains the letter dt.09.04.2015 of the Chief Executive Officer of 4th respondent-Society, and also the resignation letters submitted by respondent nos.8 to 14.

45. Even the 3rd respondent in his counter

categorically stated that he received the letter of 4th respondent enclosing the resignation letters of respondent nos.8 to 14.

46. Sri P.S.P. Suresh Kumar, the counsel appearing for Chief Executive Officer of 4th respondent-Society, did not dispute the signatures of the Chief Executive Officer of the 4th respondent-Society on the covering letter dt.09.04.2015 addressed by the Chief Executive Officer to the 3rd respondent and also did not place any material before this Court to disbelieve the said letter.

47. Therefore, on the basis of evidence on record, it has to be held that the affidavit filed by the Chief Executive Officer of the 4th respondent-Society is a false affidavit, and his plea that he did not receive the resignation letters of respondent nos.8 to 14 or forwarded them to the 3rd respondent, is also a false plea.

48. Therefore, this Point is answered against the petitioners and in favour of respondent nos.8 to 14.

POINTS (b) & (c) :

49. In the impugned order dt.09.04.2015, the 3rd

respondent has categorically stated that respondent nos.8 to 14, who had tendered resignations to the Chief Executive Officer of the 4th respondent-Society, were examined in person and their statements were recorded and their specimen signatures were also verified with their signatures in the Minute Books of the Society at the time of the elections and found to be correct. This is also corroborated by the counter-affidavit of respondent nos.8 to 14 wherein they stated that they personally attended the Office of 3rd respondent to convince him that they submitted their resignations voluntarily.

50. Since there is no dispute as to the genuineness of the resignations submitted by respondent nos.8 to 14 through the Chief Executive Officer of the 4th respondent-Society to the 3rd respondent, 3rd respondent was right in coming to the conclusion that seven of the Members of the thirteen Managing Committee members had resigned.

51. As per Rule 23 (2) of the Rules framed under the Act, the quorum fixed for a meeting of the Managing Committee is the 'majority' of the total Members of the Committee.

52. In this case, since the strength of the Managing Committee is thirteen, the quorum would be seven.

53. Since seven Members of the Managing Committee

had resigned, the remaining six Members of the Managing Committee would not constitute a quorum.

54. A Division Bench of this Court in **S.Seetha Ramaiah Naidu v. Ongole Co-operative Bank Ltd**^[8]

held that there cannot be a valid meeting of a Managing Committee if there is no quorum and that in such a case, there is no meeting. It held that the word “quorum” denotes the number of persons whose presence is required in order that business may be transacted validly by a body and to render its acts valid, and that quorum is thus a foundation for the validity of a meeting.

55. So it is impossible for the Society to transact any business without a quorum including the business of accepting the resignations of the majority. The Law does not compel the performance of an impossible obligation.

56. Possibly, keeping in mind this scenario, Rule 23-AAA of the Act has been introduced on the statute book by G.O.Ms.No.37 Agriculture and Co-operation (COOP.IV) dt.28.01.2002. It states :

“23-AAA :

(1) *Notwithstanding anything contained in the bye-laws of the society, the President may resign his seat by sending a letter of resignation by Registered Post or by tendering it in person to the Registrar and such resignation shall take effect from the date it is accepted by the Registrar.*

(2) *The powers and functions of the President shall devolve on Vice-President till election to the post of the*

President is held as per bye-laws.

(3) Notwithstanding anything in the bye-laws of the society, any member or members of the committee may resign their seats by sending a letter of resignation by Registered Post or by tendering it in person to the Chief Executive Officer/President of the society and such resignation shall take effect from the date it is accepted by the Managing Committee.

(4) In the event of absence of the President for more than a period of three months or death of President of a society, the powers and functions of the President shall devolve on the Vice-President till election to the post of the President is held as per bye-laws.

(5) In the event of resignation of the entire Managing Committee or a majority of the Managing Committee, the Registrar of Co-operative Societies shall hold elections and till the new Managing Committee takes charge the Registrar may appoint person in-charge or direct the Managing Committee to continue to discharge their functions till the elections are held and the new Managing Committee takes charge.”

57. A reading of Clause (1) of Rule 23-AAA of the above Rule indicates that if the President of a Society alone resigns, there is a necessity for it to be accepted by the Registrar. Such acceptance of resignation is also required under Sub-Rule (3) of Rule 23-AAA if a minority of members of the Managing Committee resign.

58. But in the event of resignation of the entire Managing Committee or majority of the Managing Committee, in a situation where there is no dispute about the factum of resignation, since there is an impossibility to convene any meeting of the Managing Committee for

accepting the resignations on account of lack of quorum [quorum being the majority of the Managing Committee as prescribed by Rule 23(2)], the rule-making authority rightly thought it fit to dispense with the requirement of acceptance of resignations by the Managing Committee in clause (5) of Rule 23-AAA. Under this clause, subject to the Registrar of Co-operative Societies being satisfied about the genuineness of the resignations of the majority of the Managing Committee or the entire Managing Committee, the Registrar is directed to hold elections and to appoint a person in-charge till a new Managing Committee takes charge or direct the existing Managing Committee to continue to discharge their functions till the elections are held and the new Managing Committee takes charge. So clause (3) of Rule 23 AAA would not apply if the entire Managing Committee or majority members of a Managing Committee resign.

59. In the present case, since admittedly the majority of the Managing Committee Members, i.e., seven out of thirteen resigned, and the 3rd respondent was satisfied that the resignations were genuine, after respondent nos.8 to 14 visited his Office and informed him about the voluntariness of their resignations, the 3rd respondent was correct in coming to the conclusion that there is no Managing Committee and invoke Section 32(7)(a)(i) and appoint a person in-charge.

60. Section 32(7)(a)(i) of the Act states :

"Sec.32.

(7)(a)(i) If there is no committee or in the opinion of the Government or, the Registrar, it is not possible to call a general meeting for the purpose of conducting election of members of the committee, the Government, in respect of such class of societies as may be prescribed and the Registrar in all other cases may appoint a person or persons to manage the affairs of the society for a period not exceeding six months and the Government may, on their own and the Registrar with the previous approval of the Government, extend from time to time, such period beyond six months, so however that the aggregate period include the extended period if any, shall not exceed three years."

61. No doubt, the decision in **Pamarthy Veeraswamy** (1 supra) laid down that there is a distinction between existence of a Committee but without quorum *and* a situation where there is no Committee at all, and laid down that if there is a Committee, but it is not functioning, Section 32 (7) would have no application.

62. But once Clause (5) of Rule 23-AAA is introduced on the statute book by the rule making authority, and it provides that in the event of resignation of majority of the Managing Committee, notwithstanding the existence of a Managing Committee (in minority), the Registrar is empowered to appoint a person in-charge, the said decision cannot apply. In effect, by operation of Rule 23AAA(5), the Managing Committee, even if existing in a minority, is deemed to be non-existent, paving the way for appointment of a person in charge. So the said decision

cannot come to the rescue of petitioners.

63. In **V. Pedda Venkateswarlu** (2 supra) no doubt it was held that the resignation submitted by a Member of a Managing Committee would become effective only by acceptance by the Managing Committee.

64. But this principle also cannot apply after the introduction of Clause (5) of Rule 23-AAA since it does not talk of acceptance of a resignation at all by the Managing Committee in a situation where the entire Managing Committee or majority of the Members of the Managing Committee resign. Therefore, the said decision also cannot come to the rescue of petitioners.

65. The contention of petitioners that the Chief Executive Officer of the 4th respondent-Society should have attempted to convene a meeting of the Managing Committee and if such attempt did not fructify on account of lack of quorum, he should send the report to the Registrar about the situation and then only the Registrar can take further action, is untenable because such a procedure is not contemplated under the Act or the Rules made thereunder.

66. An interpretation imposing any such obligation on the Chief Executive Officer of the Society would practically result in re-writing the provisions of the statute and the Rules made thereunder, which is impermissible, since it

violates the doctrine of separation of powers which is the basic structure of the Constitution of India.

67. It is true that in **Sanjay Nagayach** (3 supra), the Supreme Court observed that the Registrar of Co-operative Societies should act independently without external pressure or influence or under the dictation. The said principle cannot be applied to the present case because there is no evidence of any such pressure being brought to bear on 3rd respondent except a bald plea to that effect in the affidavit filed along with the Writ Petition.

68. In **Awari Devanna** (5 supra), this Court has held that a Managing Committee is elected for a specific term and got a vested right to hold office for the said tenure and that tenure can be terminated prematurely only on the grounds stated under the statute. It observed that principles of natural justice should be followed in such a situation where an attempt is made to terminate prematurely the term of the Managing Committee of a Society.

69. The said principle is not attracted in the present case since the term of the Managing Committee of 4th respondent-Society is terminated not under Section 34, but on account of resignation of majority of Members of the Managing Committee, a situation covered by sub-Clause (5) of Rule 23-AAA of the Act. Therefore, even the

said decision does not apply.

70. Therefore, Points (b) and (c) are answered in favour of respondent nos.1 to 3 and 8 to 14 that the 3rd respondent was entitled to come to a conclusion that on the resignation of respondent Nos.8 to 14 from the Managing Committee of 4th respondent-Society, there is no Managing Committee to approve the resignations of respondent nos.8 to 14, and that it is a fit case to appoint a person in-charge to manage the affairs of 4th respondent-Society by invoking Rule 23-AAA (5) and Section 32(7)(a)(i) of the Act.

POINT (d) :

71. It is the contention of counsel for petitioners that in the order dt.09.04.2015 passed by 3rd respondent taking note of the resignation of respondent nos.8 to 14 from the Managing Committee of 4th respondent-Society and appointing a person in-charge to manage its affairs, the word “supersession” had not been used at all, and therefore, the 2nd respondent in his order dt.09.04.2015 was not justified in invoking , Clause (ii) of the above proviso to sub-Section (1) of Section 21-A, and treat the delegation of 1st petitioner to 5th respondent-Bank as having ceased on the ground that the Managing Committee has been superseded. They further

contended that the word “superseded” has to be understood only in the manner indicated in Section 34 of the Act (where the Registrar has power to supersede a Managing Committee on the ground that it is not functioning properly or that it willfully disobeys or fails to comply willfully with any lawful order or direction issued by the Registrar under the Act or the Rules) and since such a thing has not occurred at all, the question of 1st petitioner ceasing to be a delegate of 3rd respondent-Society in the 4th respondent-Financing Bank does not arise even assuming for the sake of argument without conceding that the resignations of respondent Nos.8 to 14 are valid and 3rd respondent was competent to appoint a person in-charge to manage the affairs of 4th respondent-Society. According to the counsel for petitioners, the appointment of a person in-charge did not automatically result in cessation of the delegation of 1st petitioner as delegate of 4th respondent society in 5th respondent financing Bank since there is no supersession of the Managing Committee of the Society. According to counsel for petitioners, when the statute, i.e., the Andhra Pradesh Co-operative Societies Act, 1964 had not defined the term “supersession” and a provision therein i.e., Section 34 dealt with supersession of the Managing Committee, the word “supersession” used in Clause (ii) of 2nd proviso to sub-Section (1) of Section 21-A should be given the same

meaning as in Section 34. They relied on the decision in **Ansal Properties and Industries Limited v. State of Haryana and another**^[9] and **Lalu Prasad Yadav and another v. State of Bihar and another**^[10] in this regard. They contended that the text and context of the statute should be looked into and not the general/dictionary meaning of the word “superseded”. He contended that the above proviso is in the nature of penal provision, and therefore, has to be strictly interpreted.

72. The counsel for respondent nos.8 to 14 as well as the learned Government Pleader refuted the above contentions, and stated that the word “supersession” used in Clause (ii) of Section 21-A was not intended by the Legislature to have the same meaning as that used in Section 34 of the Act and that if it were to be so, the Legislature would have said so specifically. He contended that in common parlance, the word “superseded” means “placing somebody in place of existing incumbent.” According to him, once the legally constituted Managing Committee is replaced by a person in-charge by 3rd respondent pursuant to Rule 23-AAA (5), there is a supersession of the Managing Committee though this has not happened in the manner indicated in Section 34 of the Act. He therefore contended that the ordinary dictionary meaning of the term “superseded”

should be applied in the situation and the said term cannot be understood in the manner in which it is provided for in Section 34.

73. The counsel for petitioners however vehemently contended that the Court cannot take recourse to dictionary meaning of the term “superseded” particularly when it entails penal consequences and the word “superseded” should be understood only in the manner set out in the statute.

74. To consider this point, it is necessary to refer to the 2nd proviso to sub-Section (1) of Section 21-A of the Act. It states :

“Provided that any delegate of a society sitting on the committee of any other society, shall cease to be such delegate. If:

- (i) his delegation is withdrawn;*
- (ii) the committee which elected him as the delegate, has been **superseded**;*
- (iii) the society of which he is the delegate is defunct or commits default in the payment of any amount due in cash or kind to such other society for the period prescribed; or*
- (iv) the affairs of the society of which he is the delegate are wound up.” (emphasis supplied)*

75. No doubt, there is a principle laid down in interpretation of statutes that it is reasonable to presume that same meaning is implied by the use of the same expression in another part of a statute, but a 5 Judge

Bench of the Supreme Court in **Shamrao Vishnu Parulekar and another v. The District Magistrate, Thana and others**^[11] observed that this rule of construction though well-settled, is only one element in deciding what the true import of the enactment is, to ascertain which it is necessary to have regard to the purpose behind the particular provision and its setting in the scheme of the statute. Quoting *Craies on Statute Law* it held that the presumption that “*the same words are used in the same meaning is however very slight, and it is proper ‘if sufficient reason can be assigned, to construe a word in one part of an Act in a different sense from which it bears in another part of an Act’.*” It also quoted *Maxwell* on “*Interpretation of Statutes*” wherein it observed that the above presumption “*is not of much weight and the same word may be used in different senses in the same statute, and even in the same section*”.

76. The above decision was applied in **Commissioner of Income-tax v. Venkateswara Hatcheries (P) Ltd.**^[12]. The Supreme Court reiterated that the same word, if read in the context of one provision of the Act, may mean or convey one meaning and another in a different context. It held that when a word is not defined in a statute, it may be permissible to refer to dictionary to find out the meaning of that word as it is

understood in common parlance. It noted that there is a settled principle of interpretation that the meaning of the words, occurring in the provisions of the Act must take their colour from the context in which they are so used and for arriving at the true meaning of a word, the said word should not be detached from the context.

77. The Second proviso to sub-Section (1) of Section 21-A, as it stands today, had been amended by Act 5 of 1993. Rule 23-AAA had however been inserted by the Rule making authority vide G.O.Ms.No.37 Agriculture and Cooperation (Coop.IV) dt.28-01-2002 containing clause (5) which provided for appointment of a person in-charge by the Registrar in the event of resignation of the entire Managing Committee or a majority of the Managing Committee till elections are held and a new Managing Committee takes charge. A new way of supersession of a Managing Committee in a manner different from that provided in Section 34 was thus introduced.

78. Even after the introduction of Rule 23-AAA in 2002, there was no amendment to clause (ii) of the second proviso to sub-Section (1) of Section 21-A indicating an intention to confine the word “superseded” to a supersession as provided in Section 34 of the Act. Therefore it cannot be said that the intention of legislature when it introduced Section 21-A by using the word “superseded” by Act 5 of 1993 was to confine it only to a

supersession made pursuant to Section 34.

79. In **Ansal Properties and Industries Limited** (8 supra), and in **Lalu Prasad Yadav and another** (9 supra) cited by the learned counsel for the petitioners, the Supreme Court held that where the language of a statute is clear and explicit, the Court must give effect to it, whatever may be the consequences, for in that case the words of the statute speak the intention of the legislature and Courts cannot add any words thereto and evolve some legislative intent, not found in the statute.

80. In my considered opinion, the language in the clause (ii) of the second proviso to sub-Section (1) of Section 21A of the Act is clear and unambiguous and it would not be proper for the Court to add the words “*under Section 34 of the Act*” after the words “*the Committee which elected him as the delegate, has been superseded*” as is contended by the learned counsel for petitioners and construe it in that restricted sense.

81. The terms “superseded” or “supersession” have not been defined in the Act. It’s meaning as given in the Concise Oxford English Dictionary, South Asia Edition, 12th Edition is “*take the place of/supplant*”.

82. Understood in this sense, the word “supersede” used therein is capable of being understood as a supersession of a Managing Committee occurring in the

manner indicated in Clause (5) of Rule 23 AAA (other than one which occurs pursuant to Section 34 of the Act). Construing the said words used in Clause (ii) of Sub-Section (1) of Section 21-A with this meaning fits the text and context in which Clause (5) of Rule 23 AAA was introduced and does not give rise to any ambiguity or absurdity.

83. In my opinion, the text and context of clause (ii) of 2nd proviso to sub-section (1) of Sec.21A does not warrant an interpretation that the word “supersede” used therein has to be understood only in the manner provided in Sec.34 of the Act. It is therefore permissible to refer to dictionary to find out the meaning of that word used in clause (ii) of 2nd proviso to sub-section (1) of Sec.21A as it is understood in common parlance and construe it in accordance with the dictionary meaning.

84. In this view of the matter, I am of the opinion that the view of the 2nd respondent that the Managing Committee which elected the 1st petitioner as a delegate of the 4th respondent in the 5th respondent Financing Bank has been superseded consequent to the resignation of the majority of the Managing Committee members after the appointment of person in-charge by 3rd respondent and thereby invoking clause (ii) of second proviso to sub-Section (1) of Section 21-A of the Act cannot be said to be

incorrect in law.

85. Therefore point (d) is also held against the petitioners and in favour of respondent Nos.2, 3 and 8 to 14.

CONCLUSION :

86. For the aforesaid reasons, I do not find any merit in the Writ Petition. It is accordingly dismissed. No costs.

87. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 01.03.2016

Note :

LR Copy to be marked : YES

B/o.

Ndr/*

[\[1\]](#) AIR 1986 AP 134

- [\[2\]](#) 1988 (1) ALT 797
- [\[3\]](#) (2013) 7 SCC 25
- [\[4\]](#) 2010 (3) ALD 526 (DB)
- [\[5\]](#) (1994) 1 ALT 363
- [\[6\]](#) (2009) 3 SCC 553
- [\[7\]](#) (2010) 5 SCC 1
- [\[8\]](#) AIR 1974 A.P 49 (DB)
- [\[9\]](#) (2009) 3 SCC 553
- [\[10\]](#) (2010) 5 SCC 1
- [\[11\]](#) AIR 1957 SC 23
- [\[12\]](#) AIR 1999 SC 1225