

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 240 of 2017

- Lomusdhar Dewangan S/o Ram Dev Dewangan, Aged About 51 Years Occupation Bunkar, President Of Saraswati Bunkar Society, Akarabhata Road, Sakti, District Janjgir Champa (Chhattisgarh).

---- Appellant

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Cooperative, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh).
2. Jai Nahariya Baba Bunker Sahakari Samiti Maryadit, Sivni, Block Baloda, District Janjgir Champa, Chhattisgarh, A Duly Constituted Co-Operative Society Under The Provisions Of The C. G. Co-Operative Societies Act, 1960, Through Its Vice President, Shri Gyaneshwar Dewangan, S/o Shri Narayan Prasad Dewangan, Aged About 41 Years, R/o Village Sivni, Block Baloda, District Janjgir Champa, Chhattisgarh.
3. Registrar, Co-Operative Societies, Raipur, District Raipur, Chhattisgarh.
4. Joint Registrar, Co-Operative Societies, Bilaspur Division, Bilaspur, Chhattisgarh.
5. Deputy Registrar, Co-Operative Societies, Janjgir, District Janjgir-Champa, Chhattisgarh.
6. Shri Ram Gopal Dewangan, Vikas Bunker Co-Operative Society Maryadit, Kurud, District Dhamtari, Chhattisgarh.
7. Smt. J. Vinita, Co-Operative Development Officer, Baloda, District Janjgir Champa, Chhattisgarh.
8. Shri R. D. Dhritlehre, Audit Officer, Co-Operative Societies, Janjgir, District Janjgir- Champa, Chhattisgarh.

---- Respondents

For Appellant	: Shri Rajeev Shrivastava, Advocate
For Respondent-1/ State	: Shri RK Gupta, Dy Advocate General
For Respondent- 2	: Shri Amrito Das, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice Sharad Kumar Gupta

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

24.07.2017

1) This appeal is against the interlocutory order by which the learned Single Judge has granted stay of further action with proposed winding-up proceedings of a Co-operative Society governed by the provisions of the Chhattisgarh Co-operative Societies Act, 1960 (for short, 'the Act').

2) We have heard learned counsel for the appellant, learned Deputy Advocate General and the learned counsel for the writ petitioner.

3) The appellant sought to intervene in the writ petition. That application for intervention is pending consideration before the learned Single Judge. He has challenged the grant of interim relief in favour of the writ petitioner. The plea raised is that in terms of Section 78 of the Act, there is a right of appeal given against winding up of proceedings and any winding up proceedings under Section 69 of the Act will be subject to the said appeal and once the appeal is entertained, no further action would follow under Section 69 of the Act. He further points out that on the basis of the factual situation, there is no rhyme or reason why the winding-up proceeding should not be permitted to go ahead. It is further argued that the alternative remedy by way of appeal ought not have been ignored by the learned Single Judge and that the writ petition itself should not have been entertained, having regard to availability of alternative remedy.

4) Per contra, the learned counsel for the writ petitioner, opposing this appeal, argued that the appellant is only one who has sought for intervention and is not a person who is entitled to ask for anything more than an opportunity of being heard at the final hearing of the writ petition. It is pointed out that the appellant is not even a member of the Society concerned and the order issued by the learned Single Judge is an interlocutory order and, therefore, an appeal ought not to be entertained.

5) We have considered the impugned order passed by the learned Single Judge. That is an order interdicting the further proceeding under Section 69 of the Act, which provides for winding up. The learned Single Judge has applied mind to the materials placed along with the writ petition. This is apparent from the impugned order itself, which says that the said interlocutory order has been granted since stringent action has been directed in the form of winding-up. The learned Single Judge has also listed the writ petition after four weeks. The availability of an alternative remedy and the feasibility or otherwise of proceedings of the writ petition on the basis of material on record, are issues open before the learned Single Judge to be raised by those who are to oppose the writ petition. Under such circumstances, we are of the view that the impugned order of the learned Single Judge cannot be treated as one that deserves to be interfered with through this intra Court appeal. We also could not see that any issue of law or fact arises through the impugned interlocutory order, which justifies the

entertainment of a writ appeal against such an interlocutory order.

For these reasons, this Writ Appeal fails.

6) In the result, the appeal is dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge

padma