

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.13651 OF 2017

ORDER:

Heard Mr.D.Goverdhana Chary for petitioners,
Mr.C.V.Bhaskar Reddy, learned Government Pleader for
Cooperation and Mr.M.S.N.Prasad for respondent No.5.

The petitioners challenge the order of 3rd respondent in
Pc.No.1412/2016-H dated 13.04.2017 made under Section 34(1) of
the Telangana Cooperative Societies Act, 1964 (for short "the Act").
The operative portion of the order impugned in the writ petition
reads thus:

"In view of the above observations, the undersigned is
opined that the Managing Committee has failed to manage the
society in all aspects i.e., financial, procedural and managerial
lapses have been noticed in the affairs of the society. And the
explanations submitted by the Managing Committee members are
not satisfactory.

Further, aggrieved by the Inquiry under Section 51 of the
TCS Act, 1964 and the Show Cause Notice issued under Section
34 of the TCS Act, 1964 the Society has filed a Writ Petition
No.1129/2017 before the Hon'ble High Court at Hyderabad and
the case has come up for hearing on 19/01/2017 and 09/02/2017
and "no interim orders" have been given in the case.

Now therefore, in the facts and circumstances stated
above and by virtue of powers vested in me under Section 34(1)
of the TCS Act, 1964 read with G.O.Ms.No.43, A & C (Coop-II)
Department, Dated: 27.01.2017 I the Deputy Registrar/District
Cooperative Officer, Medchal-Malkajgiri District do hereby order to
supersede the Managing Committee of Muthyala Rao Cooperative
Housing Society Ltd., Regd. No.TB-864, JJ Nagar, Neredmet X
Road, Malkajgiri Mandal, Medchal-Malkajgiri District and appoint
**Sri J.Ram Chandra, Assistant Registrar/Malkajgiri Circle as
Official Administrator** to manage the affairs of the society for a
period of Six (6) months".

On 18.04.2017, this Court has granted interim suspension of
the proceedings impugned in the writ petition. Respondent No.5
filed counter affidavit and also a petition to vacate the interim
order granted by this Court. Respondent No.3 filed counter
affidavit opposing the writ prayer.

Section 76 of the Act reads as follows:

Appeal: – (1) Any person or society aggrieved by any decision passed or order made under Section 6, Section 9A, Section 9B, Section 9C, Section 12A, Section 13, [x x x], Section 16, Section 17, Section 19, Section 21, Section 21A, Section 21AA, Section 23, sub-section (3) of Section 32, Section 34, Section 34A, Section 60, Section 62, Section 64, Section 66, Section 70, Section 71, Section 73 and Section 117 may appeal to the Tribunal :

Provided that nothing in this sub-section shall apply to any order of withdrawal or transfer of a dispute under sub-section (3) of Section 62.

(2) On a reference made by the Registrar of Cooperative Societies, the Tribunal shall call for and examine the records of any proceeding which is appealable to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and where it appears to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as it may deem fit:

(3) Any appeal under sub-section (1) shall, subject to the other provisions of this Act, be preferred within sixty days from the date of communication to the appellant of the decision, refusal or order complained of but the Tribunal may admit an appeal preferred after the said period of sixty days, if it is satisfied that the appellant has sufficient cause for not preferring the appeal within the said period.

(4) In disposing of an appeal under this section, the Tribunal may, after giving the parties an opportunity of making their representations, pass such order thereon as it may deem fit.

(5) The decision or order of the Tribunal on appeal shall be final.

(6) The Tribunal may pass such interim orders pending the decision on the appeal as may deem fit.

(7) The Tribunal may award costs in any proceedings before that authority to be paid either out of the funds of the society or by such party to the appeal as the Tribunal may deem fit.

The learned counsel appearing for the parties submit that the order impugned in the writ petition can be challenged by filing appeal before the Cooperative Tribunal. Mr. Goverdhana Chary though tried to convince this Court that the circumstances are singular in the case on hand and the case attracts not the decision *per se* but the totality of procedure followed by the Deputy

Registrar/District Cooperative Officer in issuing the impugned order and hence the writ petition is maintainable.

The persuasion of Mr. Goverdhan Chary could not be taken to its logical end. After perusing the record, this Court is convinced that several issues, both law and fact, are required to be considered and such consideration is apt to the jurisdiction of appellate tribunal conferred on it by Section 76 of the Act. Hence, the petitioners are relegated to the remedy of appeal and the interim direction granted on 18.04.2017 is directed to be maintained, pending appeal, subject to a condition.

The writ petition is disposed of by this Court with the consent of learned counsel appearing for the parties.

- (a) the petitioners are given liberty to file appeal before the Cooperative Tribunal within two weeks from the date of receipt of copy of this order;
- (b) the petitioners, if present appeal within the time granted this Court the Cooperative Tribunal is directed to consider numbering the appeal, if otherwise in order, hear the case on merits and dispose of the appeal;
- (c) the appeal is directed to be disposed of as expeditiously as possible, preferably within four months from the date of filing of the appeal; and
- (d) the interim order granted on 18.04.2017 is directed to be maintained during the pendency of the appeal before the Cooperative Tribunal, subject to the condition that the petitioners herein by reference to interim suspension of this Court or during the pendency of the interim order shall not alienate or allot plots to members or strangers.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

19th March, 2018

NOTE:

Registry is directed to furnish copy of this order within one week and also return the original of order impugned in the writ petition.

B/o
Lrkm

