

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V. BHATT**

**WRIT APPEAL No.1180 OF 2018
&
WRIT PETITION No.15190 of 2018**

COMMON JUDGMENT: (Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

The Committee of the 2nd appellant was superseded through an Order passed by the Joint Registrar of Cooperative Societies. Consequently, the 9th respondent was appointed as a Special Officer. An appeal was filed against that supersession order before the duly constituted Co-operative Tribunal, Hyderabad. The matter went up for admission in terms of Rule 13 of the Tribunal Rules which governs distribution of work. A single member heard the appeal for admission and passed an interlocutory order staying the supersession order. The Joint Registrar, who passed the supersession order, filed the writ petition invoking Article 226 of the Constitution challenging the interlocutory order passed by the Tribunal. The learned single Judge while admitting the writ petition, ordered *status quo* as on that date with regard to the subject Society.

2. Heard Sri Vedula Venkataramana, learned Senior Counsel appearing for the appellants, Sri G. Krishna Chaitanya, learned counsel appearing for learned Additional Advocate General (Telangana) for respondent No.1 – writ petitioner, and Sri R. Raghunandan Rao, learned Senior Counsel for Sri T. Bala Mohan Reddy, learned counsel for respondent No.9.

3. For one thing, the Joint Registrar's order having been subjected to appeal before the duly constituted statutory Tribunal, it is not within the

domain of the very same Officer; that is, the Joint Registrar; to feel aggrieved and file a writ petition challenging the order which the Cooperative Tribunal had passed. The reasons for this view are vivid; but not, even, enumerable with precision to be ordained with the cloak of finality. Yet, firstly, it amounts to insubordination of the Tribunal itself. Secondly, it amounts to the statutory decision making authority trying to justify its order before the Tribunal, where its decision is under challenge; and even before the superior Courts. This is impermissible except in cases where making of the order challenged before the superior Tribunal or Court is charged with allegations of personal malice, malafides or arbitrariness or bias referable to that individual who delivered the order which has been subjected to challenge. Thirdly; and more importantly; the authority of the first instance to challenge the superior statutory authority's verdict; notwithstanding the applicability of the doctrine of merger; smacks not institutional insubordination; but, an endeavour to assert that the first authority was correct. This would, in such cases, evince subject matter prejudice. The order of supersession was set at naught by a superior authority through an interlocutory order within the statutory provisions. All these factors taken together would show that there is no legal right for the Joint Registrar to file the writ petition, from which this writ appeal arises, to challenge the order of the Co-operative Tribunal suspending the supersession order of the Committee of the Society. What we have stated here are fundamental. See for support: Manmohan Deo vs. State of Bihar¹, Syed Yakoob vs. K.S.Radhakrishnan², Metropolitan Properties Co., (F.G.C.) Ltd., vs. Lannon and others³, Cassell & Co., Ltd., vs. Broome and

¹ AIR 1961 SC 189

² AIR 1964 SC 477

³ [1968] 3 W.L.R. 694 = [1969] 1 Q.B. 577

another⁴, M/ s.Gojer Brothers (P) Ltd., vs. Shri Ratan Lal Singh⁵, Divisional Forest Officer vs. Pushpan⁶ and District Executive Officer and others vs. State and others⁷.

4. In terms of the constitutional and relevant statutory parameters, we are disturbed by the pleadings in the writ petition instituted by the Joint Registrar. At the outset, we may notice that, in our understanding, the writ petition is filed utilizing and expending State funds. It is not a personal litigation. However, the writ petitioner – Joint Registrar has made allegation that ‘the parties managed the 2nd member of the tribunal and got filed an advancement petition on 19.03.2018 before the 2nd member with malafide intention.’ There may be different Government Officers or even private citizens who may be used to this “management process”. But, any attempt of such management of judicial or quasi-judicial tables ought to be viewed with complete rigour and seriousness by this Court, since it is not the requirement of the systems of this land to insulate such institutions from being scouted upon through the unscrupulous process of the so called “management”. It is equally necessary to insulate frivolous allegations being popped up, as if at the drag of the hat, to be thrown at statutory bodies. Having expressed our displeasure and disagreement with, the petitioner’s such pleadings, we leave the writ petitioner – Joint Registrar to have a better understanding for himself and behave appropriately hereinafter at least.

5. The supersession order was issued by the Joint Registrar on 27.02.2018. The order of stay was issued by the Tribunal on 28.03.2018. The impugned interim order was issued by the learned Single Judge on

⁴ [1972] 2 W.L.R 645 = [1972] A.C. 1027

⁵ AIR 1974 SC 1380

⁶ 1983 KLT 951

⁷ (1991) 1 KLJ 261 : (1991) 1 KLT 390

02.05.2018. Now, in early December, 2018, ends of justice require that the appeal pending before the Tribunal has to be heard and finally decided at that end without delay.

6. Having regard to the contents of Rule-13 of the Tribunal Rules which govern distribution of work, we direct that the Chairman of the Tribunal will consider the appeal being heard by a two member Bench consisting of Chairman and a judicial member. Let the appeal be so heard and decided within a period of three months from today.

7. The interlocutory order of the Tribunal stands stayed in the hands of the learned Single Judge. We hereby vacate that order impugned in this Appeal and direct the Tribunal to consider as to how the affairs of the Society should be managed during the consideration of the appeal pending before it. Such interlocutory arrangement shall be made by the Tribunal within a period of three weeks from the date of receipt of a copy of this judgment. Since nothing remains in the writ petition, as agreed to by the parties through their learned counsel, the writ petition closed.

8. In furtherance of this order, the parties are directed to mark appearance in the office of the Co-operative Tribunal, Hyderabad on 13.12.2018 to enable the appropriate Officer of the Tribunal to give the date of consideration of the appeal or interlocutory order or for final disposal at that time. It is clarified that we have not expressed anything touching upon the merits of the matter pending before the Tribunal.

9. The writ appeal is allowed and ordered accordingly. The writ petition is closed. No order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending shall stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V. BHATT, J

December 03, 2018.

Note: LR copy be marked.

(By order)
Stp / vv /pln

