IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF DECEMBER, 2020

PRESENT

THE HON'BLE MRS.JUSTICE B.V.NAGARATHNA

AND

THE HON'BLE MR.JUSTICE NATARAJ RANGASWAMY

WRIT APPEAL No.617 OF 2020 (CS-EL/M)

BETWEEN:

1. SRI.ASHOK
   S/O RAJANNA
   AGED ABOUT 50 YEARS

2. SRI.H.C.PRAKASH
   S/O CHANDRAPPA
   AGED ABOUT 36 YEARS

3. SRI. H.S.BASAVARAJAPPA
   S/O SADASHIVAPPA
   AGED ABOUT 62 YEARS
   (SENIOR CITIZEN NOT CLAIMED)

4. SMT. ADIVAMMA
   W/O SHANKARAIAH
   AGED ABOUT 50 YEARS

5. SRI. H.R.RANGASWAMY
   S/O RAMAIAH
   AGED ABOUT 42 YEARS

6. SMT.SHANTHAMMA
   W/O SHANTHAIAH
   AGED ABOUT 55 YEARS

7. SRI. H.M.BASAVARAJ
S/O MARULAPPA
AGED ABOUT 48 YEARS

8. SRI.NANJUNDAIAH.N.
S/O NINGAPPA
AGED ABOUT 65 YEARS
(SENIOR CITIZEN NOT CLAIMED)

9. SRI. H.M.MOHAN KUMAR
S/O MALLAIAH
AGED ABOUT 42 YEARS

10. SRI.H.M.CHANDRASHEKAR
S/O MALLAIAH
AGED ABOUT 46 YEARS

11. SMT. SUJATHA
W/O BASAVARAJU
AGED ABOUT 40 YEARS

ALL ARE RESIDING AT
HALINAHALLI VILLAGE
HONNAVALLI HOBLI
TIPTUR TALUK
TUMAKURU DISTRICT-572202.

... APPELLANTS

(BY SRI. RAMACHANDRAIAH.R., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF CO-OPERATIVE
M.S.BUILDING, AMBEDKAR VEEDHI
BENGALURU -560001.
REP. BY ITS SECRETARY.

2. THE CO-OPERATIVE ELECTION AUTHORITY
3RD FLOOR, SHANTHINAGAR
TTMC 'A' BLOCK, K.H.ROAD
SHANTHINAGAR,

BENGALURU-560027.
REP. BY ITS COMMISSIONER.

3. THE JOINT REGISTRAR OF
CO-OP. SOCITIES
TUMAKURU DIVISION
TUMAKURU DIST-572102.

4. THE ASSISTANT REGISTRAR OF
CO-OP SOCITIES
TUMAKURU DIST-572202.

5. THE MILK PRODUCERS
CO-OPERATIVE SOCIETY LTD,
HALINAHALLI VILLAGE
HONAVALLI HOBLI
TIPTUR TALUK
TUMAKURU DIST-572202.
REP BY ITS SECRETARY

6. SRI. SHIVALINGAIAH.B.R
RETURNING / ELECTION OFFICER
THE MILK PRODUCERS CO-OPERATIVE
SOCIETY LTD, HALINAHALLI VILLAGE
HONAVALLI HOBLI, TIPTUR TQ.
TUMAKURU DIST-572202.

… RESPONDENTS

(BY SRI. T.L.KIRAN KUMAR, ADDITIONAL
GOVERNMENT ADVOCATE,
RESPONDENT NOS. 1,3 AND 4)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO (1) SET ASIDE THE ORDER DATED 21.10.2020 PASSED IN W.P.NO.11720/2020 (CS-ELE) AND ALLOW THE WRIT PETITION. (2) CONSEQUENTLY, SECTION 70 OF THE ACT

IS NOT ATTRACTIVE AND CONSIDERATION OF THE SAME, KINDLY ALLOW THE WRIT PETITION AND ETC.

THIS WRIT APPEAL COMING ON FOR PRELIMINARY HEARING THIS DAY, **NATARAJ RANGASWAMY J.,** DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner has assailed the order dated 21.10.2020 passed by the learned Single Judge in W.P. No. 11720/2020.

2. The appellants claimed to be the members of the respondent No. 5-society. The election to the Board of Directors of respondent No. 5 was scheduled to be held on 05.03.2020 to elect the Board of Directors for the term 2020 to 2025. Respondent No. 6 was appointed as the Election/Returning Officer to conduct the election of respondent No. 5-society. The appellants claimed that the respondent No. 6 had prepared a draft list of voters who are not eligible to cast their votes in the elections. They also claimed that their names were excluded from the list of members, though they were entitled to vote at the election. The appellants questioned the non-inclusion of

their names in the voters list and since their representations were not considered, the appellants filed the instant writ petition seeking for a writ in the nature of certiorari to declare Section 20 (2) [(a-iv) & (a-v)] of the Karnataka Co-Operative Societies Act, 1959 as ultravires the legislative competence under Article 243Z1 and 243ZO of Constitution of India and also sought a writ in the nature of mandamus to the respondents to prepare a fresh voters' list of respondent No. 5 society and to conduct a re-election to the Board of Directors for the term 2020 to 2025.

3. Learned Single Judge considering the fact that the dispute essentially related to constitution of a Co-Operative Society, held that the appellants had to raise a dispute under Section 70 of the Karnataka Co-Operative Societies Act, 1959. Hence, the learned Single Judge disposed off the writ petition with liberty to the petitioners to raise a dispute before the competent Authority under Section 70 of the Karnataka Co-Operative Societies Act, 1959.

4. Learned counsel for the appellants now contend that after the elections were held on 05.03.2020, the appellants have submitted a representation to respondent No. 6 reiterating their contention that the appellants were wrongly removed from the voters list and that many of the members whose names were found in the voters list were not eligible to be the members of the respondent No. 5 society. Learned counsel for the appellants therefore submitted that a direction may be issued to respondent No. 6 to consider the representation dated 13.03.2020 which is marked as Annexure-F.

5. Since the election to the Board of Directors is already held and the result of the election is announced on 05.03.2020, the respondent No. 6 has now become *functus officio* and the proper remedy available to the appellants is to raise a dispute under Section 70 of the Karnataka Co-Operative Societies Act, 1959, where all contentions can be raised.

6. We do not find any error in the reasoning of the learned Single Judge. Hence this Writ appeal lacks merit and the appeal is **dismissed**.

7. In view of the dismissal of the writ appeal, IA 1/2020 for dispensation of production of translated copies would not arise for consideration.

Sd/-
JUDGE

Sd/-
JUDGE

mbb