

B. Krishna Bhat Vs. Vishwabharath and Others

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Court : Karnataka

Decided On : Jul-21-2014

Judge : Ram Mohan Reddy

Appeal No. : Writ Petition No.21742 of 2014 (CS-RES)

Appellant : B. Krishna Bhat

Respondent : Vishwabharath and Others

Judgement :

(Prayer: This Writ Petition Is Filed Under Articles 226 and 227 Of The Constitution Of India Praying To Quash/ Set-Aside The Order Dated 7 May 2014 Passed On I.A. In Case Revision No. 14/2014 By The Karnataka Appellate Tribunal, Vide Annexure-J, Etc.)

1. This petition is filed calling in question the rejection of petitioner's LA. in Revision Petition No. 14/2014 by order dated 07th May 2014, of the Karnataka Appellate Tribunal ('KAT' for short), Annexure-J.

2. According to the learned Counsel for petitioner, revision petitioner when arraigned as respondent in a dispute invoking Section 70(1)(a) of the Karnataka Co-operative Societies Act, 1959, ('the Act' for short) instituted by respondent No.1, Co-operative Society advanced objections over maintainability of the petition and requested the authority to frame a preliminary issue.

3. The dispute brought before the authority was over mis-appropriation of funds of the Co-operative Society, a matter touching upon the management and business of the Co-operative Society. It was therefore for the person who raised the dispute to establish, by cogent evidence over the allegations of mis-appropriation. Petitioner advanced a plea of maintainability on the premise that mis-appropriation, if any, ought to be established through books of account of co-operative society or through statutory provisions or audit report and, not otherwise. That objection of the petitioner when rejected by order dated 17.03.2014, petitioner instituted Revision Petition No. 14/2014 before the KAT. The Tribunal too, by order impugned, rejected I.A.I for stay of proceeding before the authority. Hence this writ petition.

4. Heard the learned Counsel for parties, perused the order impugned.

5. Undoubtedly, the KAT instead of considering the application for stay on its merits, apparently, went astray to consider the merit of the order impugned in the appeal, of the authority rejecting the plea of maintainability of the petition. The order suffers from an error apparent on the face of the record. On that score alone, this petition deserves to be allowed.

6. In the result, this petition is allowed. Order of the KAT is quashed and proceeding remitted for consideration, afresh. It is made clear that KAT ought to consider the I.A. on its merit and the revision petition on its merit, but, separately and not club them. Parties to appear before the KAT on 04.08.2014 and conclude their arguments over I.A. for stay. KAT to pass orders in accordance with law.

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