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Court : Kerala

Decided On : Apr-06-2001

Reported in : AIR2001Ker408

Judge : K.K. Usha, C.J. and; Kurian Joseph, J.

Acts : Kerala Co-operative Societies Act, 1969 - Sections 70 and 98; [Code of Civil Procedure \(CPC\) , 1908](#) - Order 23, Rule 1

Appeal No. : W.A. No. 269 of 2001

Appellant : Jacob Varkey and anr.

Respondent : The Idukki District Co-operative Bank Ltd. and ors.

Advocate for Def. : T.R. Ramachandran Nair, Adv.

Advocate for Pet/Ap. : T. Devassia, Adv.

Disposition : Appeal dismissed

Judgement :

Kurian Joseph, J.

1. While exercising the powers under Section 98 of the Kerala Co-operative Societies Act, hereinafter referred to as 'the Act', is the jurisdiction of the Arbitrator cribbed, cabined and confined only to those powers specified therein, or is he to

exercise those powers which are not expressly prohibited since there is a bar of jurisdiction to the civil Court is the question that arises for consideration in this case.

2. Petitioners in O.P. No. 3685 of 1997 are the appellants. They were defendants in A.R.C. No. 273 of 1994 before the third respondent. The said Arbitration Case was instituted by the first respondent, the Idukki District Co-operative Bank Limited, hereinafter referred to as the 'the Bank'. The Bank sanctioned a loan of Rs. 3,03,500/- to a partnership firm by name M/s. Kalvary Milk Products. There were three partners in the firm and the first appellant was the managing partner. The loan was sanctioned on the security of 30 cents of property owned by the firm and on the collateral security of certain properties owned by the second appellant. After availing an amount of Rs. 1,64,000/- the firm was dissolved on 26-10-1988 which came into effect from 16-12-1988. Thereafter the first petitioner became the sole proprietor and subsequently he availed a loan of Rs. 1,34,500/- from the sanctioned loan. However while filing the arbitration case all the defendants were not impleaded. The defendants impleaded were the first appellant who was the sole proprietor and the erstwhile managing partner and the second appellant whose property had been offered as collateral security. Hence Ext. P1 objection was filed before the Arbitrator which reads as follows :

'The existing A.R.C. No. 273/94 has been filed without impleading the necessary parties in the defendants' side. The Bank has to get relief from other defendants also who have not been impleaded by mistake and oversight.

Hence it is humbly prayed that this Authority may be pleased to allow the plaintiff Bank to withdraw the A.R.C. No. 273/94 and to file a fresh suit on the same cause of action against the defendants and others who are to be impleaded in addition to the existing defendants.'

3. As per Ext. P2 the appellants resisted the application for withdrawal. The appellants also strongly objected to the relief sought for filing a fresh case. According to the appellants the Arbitrator has no power to pass an order under Order 23 of the Code of Civil Procedure for allowing withdrawal of the case with liberty to file a fresh case. By Ext. P3 the Arbitrator allowed the petition and

permission was granted to withdraw the case and to file afresh after Impleading necessary parties on the same cause of action. The matter was taken up in revision as per Ext. P4, mainly on the ground of maintainability of a petition for withdrawal and the Jurisdiction of the Arbitrator to permit the same. By Ext. P5 order except the modification of granting a cost of Rs. 1000/- to the defendants in all other respects the revision petition was dismissed by the Tribunal. Hence the challenge against Exts. P3 and P5.

4. The main contention of the learned counsel for the appellants was that as far as an Arbitrator under the Act is concerned, he has got only certain limited powers enumerated under Section 98 of the Act and nothing more. Order 23, Rule 1 of the Code of Civil Procedure is not one among the power conferred on him and hence Ext. P3 and the subsequent revisional order Ext. P5 are liable to be set aside.

5. The learned single Judge considered the various contentions and guided by the dictum laid down by the decision of a learned single Judge in Cheru Ouseph v. Kunhipathumna, 1981 Ker LT 495 : (AIR 1981 Ker 266) and the Bench decisions of this Court in Gopalan Bhavani v. Raghavan Aravindakashan (1989) 2 Ker LT 118. President, Puthupariyaram Service Co-op. Society v. Ruknuni Amma (1996) 1 Ker LT 100: (1996 Lab IC 375) and Jullunder Duree & Niwar Mfg. Co. v. Jayadevan (1999) 1 Ker LJ 46 : (1999 AIHC 699) held that the Arbitrator acted within his jurisdiction and therefore dismissed the original petition; hence the writ appeal.

6. Sri. T. Devassia, learned counsel appearing on behalf of the appellants vehemently contended that all the above mentioned decisions are not applicable in the instant case and in case the principle is found to be applicable the counsel contends that the decisions require reconsideration by a larger Bench. However the sheet anchor of the contentions is that the statute has conferred only certain powers on an Arbitrator under the Act and hence the Arbitrator could act within those powers and he is not competent to expend the scope of his powers beyond that. It is also contended that once a case is referred to an Arbitrator under Section 70 of the Act, his jurisdiction is cabined and confined to Section 73 of the Act to pass an award in accordance with the provisions of the Act and the Rules.

7. Sri T. R. Ramachandran Nair, learned counsel appearing for the Bank however contends that the Arbitrator has acted within his jurisdiction and that in deciding a dispute between the parties, the said redressal agency had all the powers other than those which are not specifically prohibited under the statute or any other general law.

8. Before proceeding to analyse the issue it is necessary to extract the relevant statutory provisions in this regard. Sections 69, 70 and 98 of the Act read as follows :

'69. Disputes to be decided by Co-operative Arbitration Court and Registrar :-- (1) Notwithstanding anything contained in any law for the time being in force if a dispute arises,--

(a) among members, past members and persons claiming through members, past members and deceased members; or

(b) between a member, past member or person claiming through a member a past member or deceased member and the society, its committee or any officer, agent or employee of the society; or

(c) between the society or its committee and any past committee, any officer, agent or employees, or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased employee of the society; or

(d) between the society and any other society, or

(e) between a society and the members of a society affiliated to it; or

(f) between the society and a person, other than a member of the society, who has been granted a loan by the society or with whom the society has or had business transactions or any person claiming through such a person; or

(g) between the society and a surety of a member, past member, deceased member or employee or a person, other than a member, who has been granted a loan by the society, whether such a surety is or is not a member of the society; or

(h) between the society and a creditor of the society, such dispute shall be referred to the Co-operative Arbitration Court constituted under Section 70-A in the case of non-monetary disputes and to the Registrar, in the case of monetary disputes; and the Arbitration Court, or the Registrar, as the case may be, shall decide such dispute and no other Court or other authority shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute.

2. For the purposes of Sub-section (1), the following shall also be deemed to be disputes, namely :--

(a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor, where the society has recovered from the surety any amount in respect of any debt, or demand due to it from the principal debtor, as a result of the default of the principal debtor, whether such debt, or demand is admitted or not;

(c) any dispute arising in connection with the election of the Board of Management or any officer of the society;

Explanation :-- A dispute arising at any stage of an election commencing from the convening of the general body meeting for the election, shall be deemed to be a dispute arising in connection with the election;

(d) any dispute arising in connection with employment, of officers and servants of the different classes of societies specified in Sub-section (1) of Section 80, including their promotion and inter se seniority.

(3) No dispute arising in connection with the election of the Board of Management or an officer of the society shall be entertained by the Co-operative Arbitration Court unless it is referred to it within one month from the date of the election.

70. Award on disputes .-- (1) The Cooperative Arbitration Court, on receipt of reference of a dispute under Sub-section (1) of Section 69, shall pass an award in

accordance with the provisions of this Act and the rules and the bye-laws made thereunder and such award shall, subject to the provisions of Section 82, be final.

(2) The Co-operative Arbitration Court may, pending award of a dispute referred to it under Section 69, make such interlocutory orders as it may deem necessary in the interests of justice.

(3) The Co-operative Arbitration Court shall have the same powers, as are vested in a civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit in respect of the following matters, namely :--

(i) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;

(ii) the discovery and production of any document or other material object producible as evidence.

(iii) the reception of evidence on affidavits;

(iv) issuing of any commission for the examination of any witness; and

(v) any other matter which may be prescribed.

(4) The Registrar may, on receipt of the reference of a dispute under Sub-section (1) of Section 69.--

(a) elect to decide the dispute himself; or

(b) transfer it for disposal to any person who has been invested by the government with powers in that behalf; or

(c) refer it for disposal to an arbitrator appointed by the Registrar ;

Provided that a transfer under Clause (b) or a reference under Clause (c) shall not be made to a person equal or superior to him in rank.

(5) The Registrar may withdraw any reference transferred under Clause (b) of Subsection (4) or referred under Clause (c) of that sub-section and he may elect to

decide the dispute himself or transfer it to any other person under Clause (b) of Sub-section (4) or refer it to any other arbitrator under Clause (c) of that sub-section.

(6) The Registrar or the person invested with powers in this behalf shall, decide the dispute or the arbitrator shall pass an award, in accordance with the provisions of this Act and the rules and the bye-laws and such decision or award shall, subject to the provisions of Section 82, be final. Pending decision or award, the Registrar, such person or the arbitrator, as the case may be, may make such interlocutory orders as he may deem necessary in the interests of justice.

XX XX XX XX98. Tribunal, Registrar, etc. to have certain powers of Civil Court:--

(1) In exercising the functions conferred on it or him by or under this Act, the Tribunal, the Registrar, the arbitrator or any other person deciding a dispute and the liquidator of a society shall have all the powers of a civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely :--

(a) summoning and enforcing the attendance of any person and examining him on oath:

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits; and

(d) issuing commissions for examination of witnesses.

(2) In the case of any affidavit, any officer, appointed by the Tribunal, the Registrar, the arbitrator or any other person deciding a dispute or the liquidator, as the case may be, in this behalf may administer the oath to the deponent.'

9. It may be seen that under Section 70(1) of the Act the Registrar on receipt of a reference of the dispute under Section 69 of the Act is competent (i) to adjudicate the dispute himself, (2) to transfer it for disposal to another person who has been invested with powers on that behalf by the Government and (3) to refer it for disposal to an Arbitrator appointed by the Registrar. The Registrar of Co-operative

Societies is appointed under Section 3 of the Act which reads as follows :

'3. Registrar :-- (1) The Government may appoint a person to be the Registrar of Cooperative Societies for the State.

(2) The Government may by general or special order confer on any person all or any of the powers of the Registrar under this Act.'

It may be seen from Sub-section (2) that the government by general or special order confer on any person all or any of the powers of the Registrar under the Act. The third respondent herein is the Assistant Registrar conferred with the powers of the Registrar under Section 3 of the Act as per notification S.R.O. No. 198/1969. It is the Assistant Registrar who is invested with the powers by the Government to decide the disputes. Thus it may be seen that in the matter of deciding the disputes there is no difference between the Registrar, the person exercising the powers of the Registrar and the person appointed by the Registrar for the same. It is profitable in this context to refer to Rule 67 of the Kerala Co-operative Societies Rules, particularly Sub-rules (5) and (7) :

'67. Reference of disputes, payment of expenses and decisions on disputes :--

XXXXXX XXX(5) The Co-operative Arbitration Court or the Registrar, or the person deciding the disputes or the Arbitrator shall have power to administer oaths, to require the attendance of all parties concerned and of witnesses and to require the production of all books and documents relating to the matter of the dispute.

xxxxxx xxx(7) (a) The Co-operative Arbitration Court or the Registrar or the person or the Arbitrator deciding the dispute shall record a brief note in English or in the vernacular language of the evidence of the parties to the dispute and witnesses who attend, and upon the evidence so recorded and after consideration of any documentary evidence produced by the parties a decision or, award, as the case may be, shall be given in accordance with justice, equity and good conscience. Such decision or award shall be reduced to writing and pronounced at once or on some future date of which due notice shall be given to the parties.

(b) In the absence of any party to the dispute, duly summoned attend the dispute may be declared ex parte.'

Hence the contention that once a case is made over to an Arbitrator, his jurisdiction is only to decide the case under Section 70(3) of the Act is without any basis.

10. Section 98 of the Act provides as already seen that the Tribunal, Registrar, Arbitrator or the Liquidator has certain powers of a civil Court enumerated under subsections (a) to (d) while trying a suit under the Code of Civil Procedure. The contention is that only in respect of those enumerated matters the power extends and not beyond. We are unable to accept the above contention. The very purpose of the disputes redressal contemplated under the Act would be defeated if such a narrow interpretation is given to the Section. It is to be noted that under Section 100 of the Act 'no civil or revenue Court shall have any jurisdiction in respect of any matter for which provision is made in this Act'. As can be seen from the instant case there is provision under the Act so far as the Bank is concerned for realising the money already advanced to the first appellant and others. The Bank is entitled to take recourse to only that system and that such a mechanism of dispute redressal cannot be defeated by a narrow interpretation regarding the jurisdiction conferred on the system for redressal of the dispute. After all as held by the Apex Court in the decision reported in Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha, AIR 1980 SC 1896. 'a Tribunal is merely a seat of justice or a judicial body with jurisdiction to render justice.'

11. M. P. Menon, J. succinctly dealt with the purpose of the administration of justice through Tribunals in the decision in Cheru Ouseph v. Kunhipathamma, 1981 Ker LT 495 : (AIR 1981 Ker 266) Paragraphs 7 and 12 of the said judgment are particularly relevant in this context:

'7. Two or three important things follow from what has been seen so far. First, the administration of justice, or at any rate, a substantial part of it is how patterned in a manner different from what it was some half a century ago. Second, the special tribunals which constitute the core of this new pattern are exercising judicial functions inherent in the sovereign state. Third, the powers exercised by them are

in many cases indistinguishable in content from those exercised by Courts of justice. Further, exercise of such powers by them is vital to the citizen despite the supervisory powers of superior Courts over such exercise. If this be the true position, the reality which cannot be overlooked from the functional point of view, how are we to proceed in delimiting the powers of these bodies in matters of procedure, at least in areas not directly covered by statutes?

xxxxxx xxx12. What, after all, is the inherent power saved by Section 151 of the Code of Civil Procedure? A Court is constituted for doing justice and must be deemed to possess all powers as may be necessary to do the right and undo wrongs in the course of administration of justice. Of course, the Court must have jurisdiction over the proceedings before it can exercise the inherent power; but when that is granted, its power to advance the cause of justice by relying on unenumerated powers on inherent or residuary power, as it is often called cannot be denied to it. And therefore, where a tribunal exercises the same kind of power i.e. part of the judicial power of the State, as the Supreme Court has observed, why should it be denied similar inherent or residuary powers? If you do not like the name, call it by another; but so long as the tribunal is deciding legal disputes and determining the rights of citizens as any other Court, you cannot, without endangering its efficiency, deny to it all powers which are necessary for the administration of justice. This is not to convert every tribunal into a tyrant, but only to recognise the reality that tribunals have come to stay as instruments of administration of justice, and that occasions may arise where they too will have to step into areas unchartered by the statute and the rules, in the interests of justice. If a tribunal goes out of its way in the fullness of its powers, the superior Courts are there to correct it, as noticed by Ali; and as also observed by him, the first adjudication is more important to the litigant than the last.'

This principle was approved by a Bench decision of this Court in *Gopalan Bhavani v. Raghavan Aravindakshan*, (1989) 2 Ker LT 118 wherein it is held at paragraph 6 as follows :

'6. The position that emerges from these situations is that the Tribunal, if not conferred with specific power to dismiss an application for default and to restore

the application dismissed for default, has no power to dismiss an application for default or to restore an application dismissed for default. Naturally, this would pose another question as to what has to be done with an application, which has not been prosecuted by the applicant. This expediency, in our view, should not force the Court to boggle or equivocate its interpretative function. We feel that it is irrational for a Court to hold in the absence of specific provisions in the statutes that the Tribunal has got only the power to dismiss an application for default and has no power to restore an application dismissed for default.'

12. The question again came up for consideration in the background of the Kerala Buildings (Lease and Rent Control) Act, 1965 by a Bench of this Court in the decision reported in Ebrahim Ismail Kunju v. Phasila Beevi, (1991) 1 Ker LT 861 : (AIR 1991 Ker 385). It is profitable to refer to paragraphs 3 and 5 of the said Judgment :

'3. There is a larger contention urged on behalf of the revision petitioner. That is about the absence of an enumerated power of the Rent Controller in permitting joint trial of the cases. It does not appeal to us. A narrower approach to the Act will prompt an authority to search the limited space of the statute and its scheme to find out an enabling power in relation to the joinder of trials. Such a narrow approach does not commend over itself for our acceptance. A recent decision of the Supreme Court In Babu Ram Ram Gopal v. Mathura Dass (1990) 3 JT (SC) 25 : (AIR 1990 SC 879) has emphasised the message underlying this socially benevolent legislation intended to relieve the weakest sections of the Society. In this connection, we would like to express our reservations in relation to many of the wide observations as contained in Kochappan Pillai v. Chellappan, 1976 Ker LT 1. Some of the findings have already become inoperative by the supersession of the views by those of the Supreme Court. As for example, the view that the Rent Controller cannot take note of the subsequent events. This was held to be an unsustainable proposition by the Supreme Court. We may also refer to the discussion on furnishing negative evidence as yet another area which appears to us to be unsound In law. So too is the view expressed there on the question of pleadings. We are not unaware of a recent Division Bench decision in Narayani v. District Judge (1991) 1 Ker LT 646 : (1991) 1 Ker LT 311 which has followed 1976

Ker LT 1 supra, and over-ruled Rangaier Sons (P) Ltd. v. Rukhiyabi 1982 Ker LT 658 : (AIR 1982 Ker (NOC) 147). With great respect, it has to be pointed out that some of the larger aspects have been discussed at great length by Viswanatha Iyer, J. in C.R.P. No. 841 of 1978 and by the decision in 1982 Ker LT 658 supra. This trend is seen adopted by Padmanabhan, J. in Achamma v. Sankaran Nair, (1990) 1 Ker LT (SN) 26, Case No. 27 as well. Experience over the years would indicate that insistence on the adequacy of pleadings made in 1987 KLT 658 supra and other questions, had disciplined the proceedings before the Rent Control Authorities.

xx xx xx xx xx5. The increasing importance of the Tribunals in the vast changing life of the community' cannot be ignored by a modern Court. A modern ostrich even in the distant deserts may not make such limited use of its eyes. Many valuable rights of the modern citizen are deeply involved with the adjudicator, processes of the Tribunals. Many areas hitherto occupied by Courts, are now the domains of the Tribunals. A liberal approach towards their functioning and a larger view about the powers they need, are the requirements of the times. A Tribunal should be facilitated to do all that a Court could do in similar situations; and much more than that. Greater speed and a total liberation from the tentacles of technicalities, give a better look and greater efficiency for effectively manned Tribunals. If there be no statutory prohibition, the Tribunal should therefore normally be in a position to ordain its affairs and modulate its procedures in such a manner as to best subserve the interest of the public, and in particular the litigant public. Looked that way, even in the absence of an enumerated head of statutory power of the conjoint reading of 5.23 and the enumerated provisions of the CPC referred to in that section, would have permitted the Tribunal to pass an order which would better serve the interest of the litigant and of the Tribunal. However, the Rent Controller and the Appellate Authority should be circumspect in the invocation of the power and in the issue of an order invoking such a jurisdiction.'

13. Referring to the position of the dispute redressal by the Registrar in the background of the Bihar and Orissa Co-operative Societies Act the Apex Court in the decision reported in Jugal Kishore v. Sitamarhi Central Co-op. Bank, AIR 1967 SC 1494, has held that the Registrar in such exercise has not merely the trappings

of a Court but he is given the same powers as are given to ordinary civil Courts. At paragraph 11 of the said judgment it is held as follows :

(1) It will be noted from the above that the jurisdiction of the ordinary civil and revenue Courts of the land is ousted under Section 57 of the Act in case of disputes which fell under Section 48. A Registrar exercising powers under Section 48 must, therefore, be held to discharge the duties which would otherwise have fallen on the ordinary civil and revenue Courts of the land. The Registrar has not merely the trappings of a Court but in many respects he is given the same powers as are given to ordinary civil Courts of the land by the Code of Civil Procedure including the power of summon and examine witnesses on oath the power to order inspection of documents, to hear the parties after framing issues, to review his own order and even exercise the inherent jurisdiction of Courts mentioned in Section 151 of the Code of Civil Procedure. In such a case there is no difficulty in holding that in adjudication upon a dispute referred under Section 48 of the Act, the Registrar is to all intents and purposes, a Court discharging the same functions and duties in the same manner as a Court of law is expected to do.'

14. It may be seen that in the instant case also essentially the functions of the Arbitrator under the Act is that of an ordinary civil Court in deciding a suit. The decision in a suit does not mean merely the final decision. It takes in also the entire stages leading to the decision. Thus the Arbitrator in the Instant case is fully justified in passing the impugned order granting liberty to withdraw the suit and file a fresh suit after impleading necessary parties. It is significant to note that none of the statutory rights of the appellants/defendants is in any way affected in the process.

15. In the decision reported in *Thankam R. Pillai v. Arbitrator* (1986) 1 Ker LT 225 : (1996 AIHC 1793) a Bench of this Court considered the contention regarding jurisdiction of the Arbitrator being limited to the specified powers under Section 98 of the Act. Consideration in the said case pertained to the impleadment of the legal representatives of the deceased petitioner in an Arbitration case. There also the contention was that since the impleadment of the legal heirs was not a power specifically conferred, the Arbitrator was incompetent to do so. Referring to the

above mentioned case the Bench repelled the contention and held that there is no distinction between an Arbitrator functioning under the Act and the Registrar, both being adjudicatory bodies coming within the meaning of the term Tribunal. Paragraph 14 of the said judgment reads as follows :

14. In the light of the above legal position on the point settled by the Supreme Court after resolving the conflict of views regarding the power of the Tribunals/Labour Court in the matter of allowing legal representatives to continue the proceedings, the only question to be considered further is whether the Arbitrator functioning under the Act is an adjudicatory body coming within the meaning of the term Tribunal'. Justice V. R. Krishna Iyer in Gujarat Steel Tubes Ltd. etc. v. Gujarat Steel Tubes Mazdoor Sabha AIR 1980 SC 1896 has unequivocally held that 'a Tribunal in its wider connotation, embraced every adjudicatory organ including an Arbitrator'. In para 86, it was further explained thus : 'Then what is the natural meaning of the expression 'Tribunal'? A 'Tribunal' literally means a seat of justice. May be, justice is dispensed by a quasi-judicial body, an Arbitrator, a commission, a Court or other adjudicatory organ created by the State. All these are Tribunals and naturally the import of the word embraces an Arbitration Tribunal'. In his own inimitable style, the learned Judge went on to observe that 'a caste distinction between Court, Tribunals, Arbitrators, and others is functionally fallacious'. In the light of the above exposition of the import of the word Tribunal' by the Supreme Court, we have no hesitation in holding that the Arbitrator functioning under the Act is a quasi judicial adjudicatory body falling within the term Tribunal' and as such, the principles laid down by the Supreme Court in AIR 1994 SC 1176 (Rameshwar Manjhi v. Management of Sangramgarh Colliery) are equally applicable to a proceeding pending before the Arbitrator in the matter of impleading the legal heirs of the deceased party to such proceedings.'

16. In a recent decision of the Apex Court reported in P. Sarathy v. State Bank of India, (2000) 5 SCC 355 : (AIR 2000 SC 2023) the Court has considered the question in more detail. The Apex Court has taken the view that an authority constituted under Section 41(2) of the Tamil Nadu Shops and Establishments Act to settle the disputes is a Court within the meaning of Section 14 of the Act. Paragraph 9 of the said judgment reads as under :

'9. The Deputy Commissioner of Labour (Appeals), Madras, which is the authority constituted under the Tamil Nadu Shops and Establishments Act, 1947 has the jurisdiction to adjudicate upon an order by which the services of an employee are terminated. He has the jurisdiction to decide whether the order of dismissal, passed by the employer, was valid or it was passed in violation of any statutory rule or principles of natural justice. Under Section 41(3), the order passed by him is binding on the employer as also on the employee. Thus, the Deputy Commissioner of Labour (Appeals) may not be a 'civil Court' within the meaning of the Code of Civil Procedure but it is definitely a 'Court'.

17. Guided by the principles as settled above by this Court as well as the Supreme Court hold that Ext. P3 order passed by the Arbitrator granting permission to the Bank to withdraw the case with liberty to file a fresh case after impleading the proper parties is perfectly within his jurisdiction. As already mentioned above no prejudice is caused to the appellants and none of their legal rights is infringed.

We are therefore in full agreement with the view taken by the learned single Judge that enumeration of certain powers under Section 98 of the Act will not prohibit the Registrar or the Arbitrator in exercising powers which are not defined by the statute while resolving the disputes under Section 70 of the Act. In the result the writ appeal fails and it is accordingly dismissed.