

Rajasthan High Court

Rajasthan Co-Operative Dairy ... vs Prasan Kumar And Ors. on 24 May, 1989

Equivalent citations: 1989 WLN UC 425

Author: A Mathur

Bench: A Mathur

JUDGMENT A.K. Mathur, J.

1. This revision petition is directed against the order passed by the learned Munsif and Judicial Magistrate, Bikaner, dated March 9, 1989. whereby he has over-ruled the objection of the respondents that by virtue of Section 75 read with Section 137 and 143 of the Rajasthan Cooperatives Act, 1965 (here in after referred to as 'the Act'), a civil court has no jurisdiction to entertain the present dispute.

2. The brief facts giving raise to this petition are that the petitioner filed a civil suit challenging the order of the management of transferring the petitioner back to the Government of Rajasthan by the order dated March 2, 1976 It is this order which has been challenged in the civil court and in these proceedings the aforesaid objection was raised that the civil court has no jurisdiction to entertain the dispute.

3. Mr. Parihar, learned Counsel for the petitioner, submitted that in view of Section 75, the civil court has no jurisdiction and plaintiff should first approach the Registrar, Co-operative Society under Section 75 of the Act.

4. The contention of Mr. Parihar, does not appear to be well founded. The Hon'ble Supreme Court in the Gujarat State Co-operative Land Development Bank Ltd v. P.R. Manked and another AIR 1976 SC 1203 had the occasion to examine this aspect and has taken the view that the expression 'management' does not include the disciplinary proceedings or any dispute between the management and the employee. This was followed by this court in Bhilwara Sahkari Upbhokta Wholesale Bhandar Ltd. v. Prescribed Authority and Anr. 1982 RLR 927 wherein Hon'ble Agrawal, J. following the aforesaid judgment of the Supreme Court in Gujarat State Co-operative Land Development Bank's case s(supra) has held that Section 75 does not debar the jurisdiction of the civil court to entertain such disputes, While dealing with this aspect in para 13 of the judgment Hon'ble Agarwal, J. quoted from Gujarat State Cooperative Land Development Bank's case (supra) which reads as under:

We will now focus attention on the expression 'management of the Society' used in Section 96(1) of the Act of 1961, Grammatically, one meaning if the term 'management' is, the Board of Directors' or the apex body' or Executive Committee at the helm which guides, regularities, supervises, directs and controls the affairs of the society. In this sense, it may not be include the individuals who under the overall control of that governing body or Committee, run the day to day business of the Society. (See Words and Phrases by West Publishing Co. Permanent Edition. Vol. 26, page 357, citing Warnex & Swasay Co. v. Rusterhoi D.C. Mina 41 F. Supp 398, 505). Another meaning of the term 'management' may be (the acts or act of managing or governing the direction, guidance, superintendence, regulation and control of the affairs of a Society.

The aforesaid observation of the Supreme Court was made after considering the scheme and object of the legislation dealing with Co-operative Societies the word 'management' cannot be given a wide connotation and that a dispute raised against Co-operative Society where a discharge servant claims reinstatement in service is from its very nature outside the scope of the expression 'touching the management of the Society' and the Registrar of Cooperative Societies has no jurisdiction to deal with such a dispute with falls within the jurisdiction of Industrial court under the Bombay Industrial Relations Act. It was observed that the aforesaid observations of the Hon'ble Supreme Court are equally applicable in the present society. Thus, the view taken by the learned Magistrate appears to be correct and does not call for any interference by this Court.

5. There is no merit in the revision petition, the same is dismissed.