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2nd Session 1957-58

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Co-operative Societies (Special Provisions) Act, No. 24 of 1958

Date of Assent : May 9, 1958

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ACT TO ENABLE FRESH APPLICATIONS TO BE MADE UNDER RULE 38 (13) OF THE CO-OPERATIVE SOCIETIES RULES, 1950, IN CERTAIN CASES; TO AMEND THE CO-OPERATIVE SOCIETIES ORDINANCE; AND TO MAKE PROVISION IN REGARD TO THE DECISIONS OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES ON CERTAIN APPEALS MADE TO HIM UNDER SUCH ORDINANCE.

[Date of Assent: May 9, 1958]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Co-operative Societies (Special Provisions) Act, No. 24 of 1958.

Short title.

2. (1) Where any application made to a civil court under Rule 38 (13) of the Co-operative Societies Rules, 1950, published in *Gazette* No. 10,086 of March 24, 1950, for the enforcement of a decision of the Registrar of Co-operative Societies on a dispute or an appeal referred or made to him under section 45 of the Co-operative Societies Ordinance or the award of an arbitrator on a dispute referred to him under such section has been rejected, during the period specified in sub-section (2), on the ground that such Rule is *ultra vires* of such Ordinance, a fresh application may be made under such Rule to a civil court for the enforcement of such decision or award notwithstanding anything to the contrary in any other law.

Fresh application under Rule 38 (13) of the Co-operative Societies Rules, 1950, may be made in certain cases.

(2) The period for the purpose of sub-section (1) shall be that—

(a) commencing on May 16, 1956, when two Judges of the Supreme Court decided in the case of *S. M. Don Nereus vs. Halpe Katana Co-operative Stores Society Limited* (S.C. 170—D.C. Negombo, 16683) that Rule 38 (13) mentioned in sub-section (1) was *ultra vires* of the Co-operative Societies Ordinance, and

(b) ending on November 18, 1957, when the majority of five Judges of the Supreme Court decided in the case of *The Pinikahana*

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Kahaduwa Co-operative Society Limited
vs. P. M. Herath (S.C. 118—D.C. Balapitiya, 220) that the aforesaid Rule 38 (13) was *intra vires* of the Co-operative Societies Ordinance.

Amendment of
section 45 of
the Co-operative
Societies
Ordinance.

3. Section 45 of the Co-operative Societies Ordinance is hereby amended by the insertion, immediately after sub-section (3) of that section, of the following new sub-section:—

“(3A) No party to any appeal made to the Registrar under sub-section (3) shall be entitled, either by himself or by any representative, to appear before and be heard by the Registrar on such appeal.”.

Provision in
regard to the
decisions of
the Registrar of
Co-operative
Societies on
certain appeals.

4. Where before the commencement of this Act the Registrar of Co-operative Societies has decided any appeal under sub-section (3) of section 45 of the Co-operative Societies Ordinance without having given the parties to such appeal an opportunity of being heard by him on such appeal, such decision shall not be deemed to have been or to be invalid by reason only of the fact that such opportunity had not been given:

Provided that the preceding provisions of this section shall not apply to the decision of the Registrar of Co-operative Societies on such appeal made to him under sub-section (3) of section 45 of the Co-operative Societies Ordinance as is referred to in the case of S. M. Don Nereus versus Halpe Katana Co-operative Stores Society Limited (S.C. 170—D.C. Negombo, 16683) decided by the Supreme Court on May 16, 1956.