

IN THE COURT OF THE PRL.CIVIL JUDGE AT ANKOLA

Dated this the 13<sup>th</sup> day of January 2021

**PRESENT**

**Sri Rangaswamy J,**  
B.A.L., LL.M.,  
Prl.Civil Judge, Ankola.

**ORIGINAL SUIT NO.90/2015**

**PLAINTIFF:** Sri Seetharama Murkhundi Naik,  
Aged about 60 years,  
Agriculturist and business,  
R/o Hanehalli, Post: Bankikodla,  
Taluk: Kumta.

(By Sri M.L.Naik, Advocate)

**-Vs-**

**DEFENDANTS:** 1. Sri Shantaram Hegde,  
President, Managing Committee,  
K.D.C.C.Bank,  
Head Office, New Market Yard,  
Sirsi- 581402.

2. Sri Sathish Ganesh Mavinakurve,  
Managing Director,  
K.D.C.C.Bank,  
Head Office, New Market Yard,  
Sirsi- 581402.

3. Sri P.S.Abbimane,  
Manager, K.D.C.C.Bank,  
Bankikodla Branch,  
Bankikodla- 581 319,  
Uttara Kannada.

4. Sri Gurucharan Krishna Nadakarni,  
Aged about 48 years,  
R/o + Post: Bankikodla,  
Bankikodla- 581 319  
Uttara Kannada.

(D1 to 3 - By Sri A.N.Talgeri, Advocate  
D 4 - By Sri N.S.Naik, Advocate)

### **ORDER ON PRELIMINARY ISSUES**

The plaintiff has filed this suit seeking the relief of mandatory injunction to the defendants No.1, 2 and 3 to shift the K.D.C.C.Bank, Bankikodla branch which is in the place of 4<sup>th</sup> defendant, to the place of the plaintiff wherein the plaintiff has constructed the proposed building for the purpose of establishing the bank.

2. According to the plaintiff, the defendants had approached the plaintiff to construct a building for the purpose of shifting the K.D.C.C.Bank to the building of the plaintiff. The plaintiff agreed for the same and he applied for the loan for the purpose of construction of a building for shifting K.D.C.C.Bank and a loan application was processed by the defendants No.1 to 3. By raising loan the plaintiff has constructed a building in the suit schedule property. But the defendants No.1 to 3 shifted the branch of the K.D.C.C.Bank to the building of the 4<sup>th</sup> defendant. Thereby the defendants have caused loss and damage to the plaintiff. Therefore, the plaintiff has filed a suit for damages and for other reliefs.

3. The defendants have filed written statement denying the plaint averments contending that this court has no territorial and pecuniary jurisdiction to try the suit and in view of Section 70 of the Karnataka Co-Operative Societies Act the jurisdiction of the court is ousted. On the basis of the grounds urged by the defendants in the written statement following preliminary issues have been framed:

### **PRELIMINARY ISSUES**

1. Whether the defendants No.1 to 3 prove that this court has no territorial jurisdiction to try the suit?
  2. Whether the defendants prove that this court has no pecuniary jurisdiction to try the suit?
  3. Whether the defendants prove that in view of Section 70 of Karnataka Co-Operative Societies Act the jurisdiction of court is ousted?
4. Heard.
5. My findings on the above preliminary issues for consideration are as under:

Preliminary issue No.1: In the negative.

Preliminary issue No.2: In the negative.

Preliminary issue No.3: In the negative.

or the following

### REASONS

6. **PRELIMINARY ISSUE NO.1:-** So far as territorial jurisdiction is concerned, the defendants have contended in the written statement that suit schedule property is situated in Hanehalli village, Kumta taluk. Therefore, the civil court, Ankola has no jurisdiction to entertain the suit.

7. The following 16 villages of Kumta taluk are within the jurisdiction of Ankola civil court for the purpose of territorial jurisdiction to entertain the suit. The 16 villages are as follows:

1. NADUMASKERI
2. HARUMASKERI
3. GANGAVALI
4. BHAVIKODLA
5. BANKIKODLA
6. DUBBANSASI
7. HANEHALLI
8. GONEHALLI
9. HOSKERI
10. BIDRAGERI
11. KADIME

12. TORKE

13. DEVARABHAVI

14. HITTALMAKKI

15. MADANGERI

16. TOREGAZANI

Therefore, the urge of the defendants that this court has no territorial jurisdiction is not tenable. Hence, preliminary issue No.1 is answered in the negative.

8. **PRELIMINARY ISSUE NO.2:-** So far as the pecuniary jurisdiction is concerned, the defendants have stated in the written statement in para 26(a) that the value of the suit schedule property is more than Rs.5,00,000/-. Therefore, this court has no pecuniary jurisdiction to try the suit. The plaintiff has valued the relief at Rs.1,000/-. Though the defendants have contended that the value of the suit schedule property is more than Rs.5,00,000/-. This issue is on the defendants to prove that the value of the suit schedule property is more than Rs.5,00,000/-. But the defendants have not furnished any documents to show that value of the suit schedule property is more than Rs.5,00,000/-. Therefore, the urge of the defendants that this court has no pecuniary jurisdiction is not tenable. Hence, this preliminary issue No.2 is answered in negative.

9. **PRELIMINARY ISSUE NO.3:-** So far as this issue is concerned, the defendants contend that under Section 70 of Karnataka Co-Operatives Societies Act, jurisdiction of this court is ousted. Therefore, at this juncture it is pertinent to refer Section 70 of Karnataka Co-Operatives Societies Act.

**“ 70. Disputes which may be referred to Registrar for decision.- (1)**  
*Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management, or the business of a co-operative society arises.-*

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

*(b) beteen a member, past member or person claiming through a member, 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 employee, 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 co-operative society, [or a credit agency.]*

*such dispute shall be referred to the Registrar for decision and [no Civil or Labour or Revenue Court or Industrial Tribunal] shall have jurisdiction to entertain any such or other proceeding in respect of such dispute.*

*(2) For the purpose of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, 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 security 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 a President, Vice-President, Chairman, Vice-Chairman, Secretary,*

*Treasurer or Member of Committee of the society.*

*(d) any dispute between a co-operative society and its employees or past employees or heirs or legal representatives of a deceased employee, including a dispute regarding the terms of employment, working conditions and disciplinary action taken by a co-operative society [notwithstanding anything contrary contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947);*

*(e) a claim by a co-operative society for any deficiency caused in the assets of the co-operative society by a member, past member, deceased member or deceased officer, past agent or deceased agent or by any servant, past servant or deceased servant or by its committee, past or present whether such loss be admitted or not.]*

*(3) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management of the business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called to question in any Court.”*

10. As per Section 70 of Karnataka Co-Operatives Societies Act, any dispute relating to constitution,

management or business of co-operative society which arises among the members or any person claiming through a member between society and other co-operative society, such dispute shall be referred to Registrar for decision.

11. In the instant case, the relief claimed by the plaintiff is mandatory injunction directing the defendants No.1 to 3 to shift the Bankikodla branch to the building constructed by the plaintiff in the suit schedule property from the building of defendant No.4 and also for damages. Therefore, the relief sought for by the plaintiff in the suit does not fall within the purview of Section 70 of Karnataka Co-Operatives Societies Act and Section 70 does not oust the jurisdiction of this court. Hence, preliminary issue No.3 answered in the negative.

12. In view of the discussion made herein above, I proceed to pass the following:

**ORDER**

Suit of the plaintiff is maintainable since preliminary issues answered in negative.

(Dictated to the Stenographer directly on computer, transcribed and typed by her, the same is corrected and then pronounced by me in the open court on this the 13<sup>th</sup> day of January 2021.)

**(Rangaswamy J)**  
Prl. Civil Judge, Ankola.

