Margret Almeida v. Bombay Catholic Coop. Housing Society Ltd., (2012) 5 SCC 642

Civil Procedure Code, 1908

S. 9 - Ouster of jurisdiction conferred on civil court - When contemplated - Validity of sale of property by respondent Cooperative Society - Jurisdiction of civil court to determine - Held, civil court's jurisdiction to adjudicate civil disputes is unlimited, subject only to limitations imposed by law either expressly or by necessary implications - On facts held, finding of Division Bench of High Court that suits for declaration that resolution dt. 6-12-2009 passed by respondent Cooperative Society proposing to sell its property to Respondents 22 and 23 and conveyance deed dt. 7-12-2009 executed pursuant thereto were invalid, illegal and void ab initio were not maintainable, and dispute was amenable to exclusive jurisdiction of Cooperative Court, unsustainable - Furthermore, premise on which High Court commenced its enquiry viz. that it was possible to challenge resolution and conveyance independently, was erroneous - In case resolution alone was challenged before Cooperative Court, Respondents 22 and 23, not being parties before that Court could ignore determination of that Court and assert their title on basis of conveyance deed - On the other hand, if appellant-plaintiffs disputed validity of title conveyed thereunder, necessarily such dispute would have to be adjudicated by a competent court under S. 9 CPC and legality of resolution would still have to be decided, (2012) 5 SCC 642-A

Cooperative Societies

Particular State and Local Statutes, Rules, Regulations and Bye-Laws

Ss. 91(1)(c), 94(3), 43, 44 and 45 - Jurisdiction of Cooperative Courts - Locus standi/Standing to bring action in Cooperative Court - Persons other than members of society - Who are - Held, when S. 91(1)(c) refers to ``persons other than members of society'' it refers to those persons who have either deposited money with society, or have lent/borrowed money from society - S. 94(3)(a) does not enable a person other than an enumerated person in S. 91(1) to refer dispute to Cooperative Court but empowers Cooperative Court to implead third party (who may or may not be member of society) to the dispute in course of adjudication if it is satisfied that such other person has acquired interest in property of party to the dispute during pendency of proceedings before Court - If contention of respondents that jurisdiction of Cooperative Court is not confined only to adjudication of disputes between society and enumerated persons, but also extends to disputes where one of the parties to dispute is not a member of Society, is accepted it would lead to a situation where a dispute between an enumerated person and a third party would become amenable to jurisdiction of Cooperative Court at instance of persons enumerated but not at instance of a third party, which would be violative of Art. 14 of the Constitution - Such a construction, being inconsistent with the constitutional mandate, is impermissible - Besides, in case if the legislature really intended that the Cooperative Court should have jurisdiction in all disputes irrespective of nature of dispute arising between various classes of persons enumerated in S. 91 and non-member third parties who acquire any interest in property of such enumerated persons, legislature could have clearly indicated the same in S. 91 itself, (2012) 5 SCC 642-B

Cooperative Societies

Particular State and Local Statutes, Rules, Regulations and Bye-Laws

S. 163 - Bar to jurisdiction of civil courts - Scope - Held, S. 163 excludes jurisdiction of civil court with reference to disputes arising out of: (1) registration of society; (2) bye-laws of society; (3) dissolution of committee of society; (4) management of society on dissolution of society; (5) any dispute which is required to be referred to Cooperative Court under S. 91; and (6) any matter concerned with winding-up and dissolution of the society, etc. - Dispute arising out of a decision of society to alienate property of society, not expressly covered under S. 163 - Hence, civil suit challenging validity of the same, not barred, (2012) 5 SCC 642-C

Cooperative Societies

Particular State and Local Statutes, Rules, Regulations and Bye-Laws

S. 91(1) - Conferment of exclusive jurisdiction on Cooperative Courts - Essentials - Held, first requirement is that the disputes should be ``disputes touching'': (1) constitution of the society, or (2) elections of ``committee or its officers'', or (3) conduct of general meetings, or (4) management of society, or (5) business of society - Second requirement is that such disputes should be referred to Cooperative Court by ``enumerated persons'', (2012) 5 SCC 642-D

Civil Procedure Code, 1908

Ss. 9 & 9-A and 96 (as inserted by Maharashtra Act 65 of 1977) - Maintainability of suit - Issue pertaining to - On facts held, High Court was not only justified but also obliged to go into question of maintainability of suits filed by appellant-plaintiffs for declaration, (2012) 5 SCC 642-E

Civil Procedure Code, 1908

Or. 39 R. 1 and Or. 43 R. 1(r) - Resurrection/restoration of interim order - Suit on Original Side of High Court - First appeal before Division Bench of High Court against interim order granted by Single Judge of High Court - Division Bench holding that suit was not maintainable - In appeal thereagainst before Supreme Court, Supreme Court reversing finding of Division Bench that suit was not maintainable - Effect on interim order - Restoration of interim order passed by Single Judge - Hence, as per clarificatory order dt. 24-2-2012, Division Bench of High Court directed to consider whether interim order granted by Single Judge was sustainable, (2012) 5 SCC 642-F

Constitution of India

Arts. 136 and 137 - Erroneous decision of Court - Cannot operate to prejudice of party aggrieved - Actus curiae neminem gravabit - Single Judge of High Court held that plaintiffs' suits were maintainable and granted interim order of status quo during pendency of suits - But on appeal, Division Bench of High Court erroneously held that suits were not maintainable in view of S. 91 of Maharashtra Cooperative Societies Act, 1960 and allowed appeal preferred by defendants - Supreme Court on 30-1-2012 while allowing plaintiffs' appeals and taking view that suits were maintainable and required to be tried by High Court in exercise of its original jurisdiction, instead of itself passing any interim order or restoring interim order passed by Single Judge, left it open to Division Bench of High Court ``to consider application filed by plaintiffs for interim orders in accordance with law and pass appropriate orders'' - Application filed before Supreme Court for clarification on ground that Supreme Court in its judgment dt. 30-1-2012 wrongly recorded that appellant-plaintiffs' application for interim orders was required to be considered by Division Bench of High Court - Respondents however argued that interim order granted by Single Judge lapsed with dismissal of suits by Division Bench of High Court and therefore, Supreme Court rightly opined that application of plaintiffs for interim order required to be considered afresh - Held, erroneous conclusion of Division Bench of High Court cannot operate to prejudice of plaintiffs who successfully demonstrated before Supreme Court that order of Division Bench cannot be sustained - It is for Division Bench of High Court to consider whether interim order granted by Single Judge to maintain status quo is to be sustained or not, (2012) 5 SCC 642-G