



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30<sup>TH</sup> DAY OF OCTOBER, 2023



PRESENT

THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

**WRIT APPEAL NO. 1312 OF 2022 (CS)**

**BETWEEN:**

D VENKATESH,  
C/O. RAJESHWARA

...APPELLANT

(BY SRI. DEVI PRASAD SHETTY.,ADVOCATE)

**AND:**

1. THE REGISTRAR OF CO-OPERATIVE SOCIETIES.,  
#1, ALSKER ROAD,  
BENGALURU - 560 052.
2. ASSISTANT REGISTRAR OF

Digitally signed  
by SHARADA  
VANI B.

Location: HIGH  
COURT OF  
KARNATAKA



3. PRATHIMAK KRISHI PATTINA  
SAHAKARA SANGHA NYAMITHA LTD.,  
KESHTURU 571 427.  
R/BY ITS SECRETARY.
4. THE ADHYKSHA,
5. CHIEF EXECUTIVE OFFICER (IN CHARGE),  
PRATHAMIKA KRISHI PATTINA SAHAKARA  
SANGHA NAYAMITHA LTD.,  
KESTHUR, MADDUR TALUK,  
MANDYA DISTIRCT -571 427.
6. PRASHANTH R,

...RESPONDENTS

(BY SMT. SHWETA KRISHNAPPA., AGA FOR R1 & R2)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 13.10.2022 PASSED IN W.P. NO. 24350/2021 AND THE WRIT PETITION W.P. NO. 24350/2021 MAY KINDLY BE DISMISSED.

THIS APPEAL COMING ON FOR PRELIMINARY HEARING, THIS DAY, **CHIEF JUSTICE** DELIVERED THE FOLLOWING:



## **JUDGMENT**

This intra-court Appeal is seeks to call in question a learned Single Judge's order dated 13.10.2022 whereby 6<sup>th</sup> Respondent's W.P.No.24350/2021 the Resolution dated 30.11.2021 has been set at naught. The operative portion of the order makes the matter evident:

*"9. In that view of the matter, I am of the view that the impugned resolution dated 30.11.2021 passed by the society, permitting the sixth respondent to withdraw the said resignation dated 16.06.2021 is bad in law. Accordingly the resolution dated 30.11.2021, insofar as permitting the sixth respondent herein to work as CEO, is not correct and accordingly the resolution dated 30.11.2021 in respect of the subject matter permitting the sixth respondent to work as CEO, is quashed. Accordingly, the matter is remanded to the third respondent/Society to reconsider the issue afresh and pass appropriate orders in accordance with the provisions contained under the Act."*

2. Learned counsel for the Appellant argues that the earlier Resolution dated 30.11.2021 which accepted resignation of the Appellant was rightly withdrawn at the instance of Appellant's wife and therefore, the same could



not have been set aside at the instance of the Writ Petitioner who happens to be the 6<sup>th</sup> Respondent herein.

3. Having heard the learned counsel for the Appellant and the learned Additional Government Advocate appearing for the official Respondents and having perused the Appeal papers, we decline indulgence in the matter broadly agreeing with the reasoning of the learned Single Judge. Resignation is a voluntary act on the part of an employee by which he seeks to leave the service to which he is appointed. An employee who has tendered resignation voluntarily, is entitled to withdraw the same before it is accepted, unless the Service Rules otherwise provide. Even if the acceptance of resignation is not communicated to the employee, it makes no difference. Once the resignation is offered and the same is duly accepted by the competent authority, resignation is complete & irrevocable, subject to all just exceptions.

4. In Service Jurisprudence, removal, resignation, retirement & death are the conventional modes of



determination of employer-employee relationship. They cut the umbilical chord of employment. As already mentioned above, an employee who has submitted the resignation letter ordinarily can withdraw the same before it is accepted, unless the law otherwise provides. But the request for such withdrawal should flow from the hands of concerned employee himself. That is not the case here. Admittedly, it is the spouse of the employee who had sought for the withdrawal of resignation of the employee and that too after it was duly accepted by passing the Resolution on 30.11.2021. No Rule or Ruling is brought to our notice which recognizes such a right in the spouse of an employee. Such an idea is alien to Service Law. This above view inarticulately animates the impugned judgment.

5. It is not the case of the Appellant that he was not in a position to apply for the withdrawal of resignation and therefore, he had authorized his wife to make such a request and that he had acquiesced in the same.



Permitting any person other than the employee to seek withdrawal of employee's resignation that too without his consent, will have several undesirable consequences. If the employee himself is not willing to be in employment, how his spouse or children can cause his continuation in service, is un-understandable to say the least. An unwilling horse cannot be drawn to the river and made to drink the water, even in the absence of thirst.

In the above circumstances, the appeal being unworthy of merits, is liable to be and accordingly dismissed.

**Sd/-  
CHIEF JUSTICE**

**Sd/-  
JUDGE**

Snb/Bsv  
List No.: 1 Sl No.: 18