

(2012) 07 AP CK 0025

Andhra Pradesh High Court

Case No: Writ Petition No. 30500 of 1997

P.S. Sudhir

APPELLANT

Vs

Canfin Homes Ltd. and Others

RESPONDENT

Date of Decision: July 19, 2012

Acts Referred:

- Constitution of India, 1950 - Article 12, 226

Citation: (2013) 3 ALD 121 : (2013) 3 ALT 626

Hon'ble Judges: G. Raghuram, J

Bench: Single Bench

Advocate: A.V. Sesha Sai for M. Radhakrishna Murthy, for the Appellant; Deepak Bhattacharjee, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

G. Raghuram, J.

The petitioner who was working as Chief Manager in M/s. Canfin Homes Ltd., Bangalore (1st respondent) a public limited company registered under the provisions of the Companies Act, 1956 was dismissed from service by the order dated 26.12.1995 of the Managing Director of the Company. His appeal to the Chairman (2nd respondent) was rejected by the order dated 20.6.1996. Assailing the primary order of dismissal as confirmed by the 2nd respondent, this writ petition is filed impleading M/s. Canfin Home Ltd., as 1st respondent, the Chairman, the Managing Director and the Chief Manager thereof as respondents 2 to 4. In the counter-affidavit dated 26.12.1997 filed on behalf of the respondents, an objection to the maintainability of the writ petition is specifically urged. The relevant pleadings assert that the 1st respondent is neither a State nor an instrumentality of the State within the meaning of Article 12 of the Constitution as the holding by the Canara Bank and its subsidiaries in M/s. Canfin Homes Ltd., is only to the extent of 33.3%.

The grievance of the petitioner cannot be pursued as a public law remedy is the sum and substance of the counter-affidavit. The petitioner does not refute this contention nor establishes that the 1st respondent is under a deep and pervasive control of Canara Bank.

2. In the circumstances and in view of the decision of the Constitution Bench in Pradeep Kumar Biswas and Others Vs. Indian Institute of Chemical Biology and Others, and the decision of a learned Single Judge of this Court in Shaheeda Begum Vs. Principal, Army School and Another, this Court is satisfied that the 1st respondent is neither a State nor an instrumentality of the State and the petitioner's service grievance with the 1st respondent Company cannot be pursued under Article 226 of the Constitution. For the aforesaid reasons, the writ petition is dismissed as not maintainable. The petitioner is at liberty to pursue such other appropriate remedies as available in law. There shall be no order as to costs.