CASE NO.:
Appeal (civil) 8080 of 2003

PETITIONER:
ILLACHI DEVI (D) BY LRS. AND ORS.

RESPONDENT:
JAIN SOCIETY, PROTECTION OF ORPHANS INDIA AND ORS.

DATE OF JUDGMENT: 26/09/2003

BENCH:
V.N. KHARE CJ & S.B. SINHA

JUDGMENT:
JUDGMENT

2003 Supp(4) SCR 62

The Judgment of the Court was delivered by

V.N. KHARE, CJ. : Leave granted.

This appeal is directed against the judgment and order dated 17th August 2001 of the High Court of Delhi, which raises a question, whether a Society registered under the Societies Registration Act, 1860 is entitled to obtain Letter of Administration under Section 236 of the Indian Succession Act (in short "the Act")?

The facts giving rise to this appeal are these :

One Ratan Lal executed a Will on 15.10.1977 bequeathing a part of his estate to Jain Bal Ashram which is run by the Jain Society (hereinafter referred to as "the Society") formed for protection of orphans in India. The Society is registered under the Societies Registration Act, 1860. On 4th March, 1978, Ratan Lal, the testator died. On his demise, the Society submitted an application before the Court for grant of Letter of Administration in pursuance of Will executed by late Ratan Lal, under Section 276 of the Act. The said petition was contested by the appellant and on her death by her legal representatives, on the ground that the petition filed by the Respondent-Society is not maintainable in view of Section 236 of the Act. The High Court being of the view that it is permissbile under Section 236 of the Act to grant Letter of Administration in favour of the Society, rejected the objection of the appellant and, it is in this way, the appellants are before us by means of a special leave petition.

Before we proceed on the merits and take up the question for answer it would be expedient to set out the relevant provisions of the Act.

Section 218 of the Act provides that to whom letter of administration be granted where the deceased is a Hindu, Mohammadan, Sikh, Jaina or exempted persons. Section 218 of the Act runs as under :

"(1) If the deceased has died intestate and was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased’s estate.

(2) When several such persons apply for such administration, it shall be in the discretion of the Court to grant it to any one or more of them.

(3) When no such person applies, it may be granted to a creditor of the deceased."

Section 223 of the Act provides that to whom probate cannot be granted. Section 223 of the Act runs as under :

"223. Persons to whom probate cannot be granted- Probate cannot be granted to any person who is a minor or is of unsound mind nor to any association of individuals unless it is a company which satisfies the conditions prescribed by rules to be made by notification in the Official Gazette, by the State Government, in this behalf."

Section 236 provides that to whom letter of administration cannot be granted. The said Section runs as under :

"236. To whom administration may not be granted.- Letters of administration cannot be granted to any person who is a minor or is of unsound mind, nor to any association of individuals unless it is a company which satisfies the conditions prescribed by rules to be made by notification in the Official Gazette, by the State Government is this behalf."

Section 236, as originally enacted, prohibited grant of letters of administration to any person who was a minor or of unsound mind. By amending Act of 1983, the following provision was inserted in Section 236 :

".....nor to any association of individuals unsess it is a company which satisfies the conditions prescribed by rules to be made by notification in the Official Gazette,....."

A perusal of sub-section (2) of Section 218 shows that it grants to the Court ample discretion in the matter of grant of Letter Administration where a testator dies intestate. The object behind granting discretion to the Court is that where a person dies intestate, the person in whose favour the Letter of Administration is granted, is required to carry out certain functions and duties being responsible to the Court, whereas Section 223 and 236, on the other hand, provide for disqualification. The Letter of Administration or probate can only be granted to those who are named in those Sections; the object being that the duties and functions of an executor in whose favour Letter of Administration is granted, is required to carry out the direction(s) contained in the Will faithfully, diligently and effectively. The executor can be discharged only as and when such directions given in the Will, are complied with or the desire of testator, as reflected in the Will, is fulfilled. The legislature, in its wisdom, has chosen to disqualify not only a minor or a person of unsound mind, but also an association of indiviudals, for carrying out the wishes and directions of the testator. The only exception which has been made in the matter of grant of probate or Letter of Administration is a company, which satisfies the conditions prescribed in the Rules and not otherwise.

The Governor-General in Council made Rules which were published in the Gazette of India on 17th January, 1933, Part-I, Page 40, which run as follows :

"(1) In these rules -

(a) ’Share capital’ includes stock; and

(b) ’Trust business’ means the business of acting as trustee under wills and settlements and as executor and administrator.

(2) The conditions to be satisfied by a company in order to render it eligible for the grant of probate or letters of administration under the Indian Succession Act, 1925 shall be the following, namely :

(1) The Company shall be either -

(a) a company formed and registered under the Indian Companies Act 1913,

or under the Indian Companies Act 1866, or under any Act or Acts repealed thereby, or under the Indian Companies Act 1882; or

(b) a company constituted under the law of the United Kingdom of Great Britain and Northern Ireland or any part thereof, and having a place of business in British India.

(2) The company shall be a company empowered by its constitution to undertake trust business.

(3) The company shall have a share capital for the time being subscribed of not less than -

(a) Rs. 10 lakhs in the case of a company of the description specified in sub-clause (a) of clause (1), and

(b) Pound 100,000 in the case of a company of the description specified in sub-clause (b) of clause (1) of which at least one-half shall have been paid up in cash.

Provided that the Governor-General in Council may exempt any company from the operation of this clause."

A society is an association of persons. It may or may not be registered under the Societies Registration Act. Since the aforementioned provisions were inserted in Sections 223 and 236 of the Act, the Courts have held that no Administration can be granted in favour of a society, although a Society could be a beneficiary under a Will executed by testator.

The object and purpose of the said provisions is to enable the Court to give full effect to be given to the Will of the Testator, such that the administrator would avoid the occurrence of any personal considerations in the matter of administration and would perform his various duties and functions with all efficiency, integrity and honesty. The nature of this tremendous responsibility may be seen from the fact that administrator is entrusted to act in a fiduciary capacity, and not liable to be discharged until the testament is fulfilled in its entirety.

It was the interests of the testator that the legislature had in mind when it enacted the disqualifying provisions contained in Section 223 and 236 of the Act. Undoubtedly, a minor or a person of unsound mind would not be in a position to discharge efficaciously the duties required of an administrator of the estate. A society is an association of persons and it may be registered under the Societies Registration Act or unregistered. Such bodies (association of persons too) would suffer from certain disabilities as there would then possibly be competing and conflicting voices with no single line of command for carrying out the wishes of the testator.

In Mohashaya Krishna v. Mt. Maya Devi and Others, AIR 35 (1948) Lahore 54 it has been categorically held that the Arya Pritinidhi Sabha, Punjab being not a company wihin the meaning of Sections 223 and 236 of the said Act was not entitled to grant of Administration, holding :

"A society registered under the provisions of Act 21 of 1860 does not cease to be an association of individuals by reason of such registration. Registration under the aforesaid Act only confers on it certain privileges which are not enjoyed by other associations of individuals. For example, such a society may sue or be sued in the name of the president, chairman or principal secretary or trustees as may be determined by the rules and regulations of the society."

In Laxman Kumar v. Mohammed Moqbul AH, (1974) 2 CWR 1112 it has been held that a mosque committee, being an association of individuals is not entitled to probate or Letters of Administration.

Allahabad High Court in Benaras Hindu University v. Gauri Dutt Joshi, AIR (1950) Allahabad 196 had, however, struck a discordant note. The Court proceeded on the premise that as Benaras Hindu University would fall within the definition of "person" as contained in the General Clauses Act a Letter of Administration can be granted in its favour holding :

"There can be no doubt that the Benaras Hindu University is, therefore, a corporation. It is a collection of individuals united into one body under a special denomination, having perpetual succession under an artificial form, and vested by the policy of the law with the capacity of acting in several respects as an individual. In law the individual corporators, or members, of which it is composed are something wholly different from the corporation itself. It is a legal persona distinct and separate from the individual members of the corporation. It can hold property enter into obligations, can sue and be sued, and has the rights obligations conferred on it by statute. It cannot be said, therefore, that the Hindu University is merely an association of individuals. An association in the United States is a body of persons organized, for the prosection of some purpose, without a charter, but having the general form and mode of procedure of a corporation, but is not, in fact, a corporation. The word "association" implies the result of an agreement giving rise to rights and obligations one against the other."

The Bench referred to an English decision in Smith v. Anderson, (1880) 15 Ch. Div. 247 at p. 273 to hold that Benaras Hindu University is not an association of individuals in the sense defined therein.

A learned Single Judge of the Delhi High Court followed the said decision in Inder Chand Nayyar v. Sarvadeshik Arya Pratinidhi Sabha, AIR (1977) Delhi 34 in the following terms :

"I have considered the matter and am in agreement with the view of the High Court of Allahabad in Ganga Sahai ’s case AIR (1950) All 480. This was a case of Arya Prati Nidhi Sabha and it was held that letters of administration could be granted to such a body which was registered under the Societies Registration Act. With greatest respect, I am not able to agree with the view taken by the High Court of Lahore in Mahashaya Krishna’s case AIR (1948) Lah 54. As a last resort it will still be open to the contesting respondent to obtain letters of administration under Section 232 of the Act in the name of its President through whom the society is entitled to sue and this will meet the technical objection raised by the appellant. I, therefore, repeal the contention of the appellant."

The High Court in its impugned judgment proceeded on the basis that although society is not a corporation but it is also not a mere association of individuals.

The High Court has sustained its judgment on the ground that Sections 223 and 236 of the Act disqualify only those persons who suffer from legal incapacity of suing or being sued. According to the High Court, since the Society can sue as well as be sued in representative capacity, it can be entrusted with the responsibility of carrying out the wishes of the testator. The High Court was of the further view that the purpose of a Will in favour of a voluntary organization or association, may be frustrated unless it is held that grant of Letter of Administration to the Society through a person nominated by it would be valid. We find ourselves unable to countenance the aforesaid view of the High Court. The mere fact of registration of a Society under the Societies Registration Act will not make the said Society distinct from association of persons. Sections 223 and 236 of the Act in very categorical term provide that association of persons; be it a society, a partnership or other forms of associations, Letter of Administration can be granted only to a company fulfilling the conditions laid down under the Rules. The Rules have been framed by the Governor-General in Council, which, after the enforcement of Constitution of India, would be a law within the meaning of Article 372 of the

Constitution of India. Sections 223 and 236 of the Act would be interpreted in the light of the Rules framed in terms thereof. A society registered under the Societies Registration Act is not a 'company' within the meaning of 'company', as provided in the Act and the Rules. In terms of Section 223 and 236, a 'company' must be a 'company' registered under the Companies Act. We are, therefore, of the considered opinion that neither the provisions of the Act nor the Rules framed thereunder contemplate that the Societies registered under the Societies Registration Act would qualify to be considered as a company for the purpose of Sections 223 and 236.

A Society registered under the Societies Registration Act is not a body-corporate as is the case in respect of a company registered under the Companies Act. In the view of the matter, a Society registered under the Societies Registration Act is not a juristic person. The law for the purpose of grant of a probate or Letter of Administration recognises only a juristic person and not mere conglomeration of persons or a body which does not have any statutory recognition as a juristic person.

It is well known that there exists certain salient differences between a society registered under the Societies Registration Act, on the one hand, and a company corporate, on the other, principal amongst which is that a company is a juristic person by virtue of being a body corporate, whereas the society, even when it is registered, is not possessed of these characteristics. Moreover, a society whether registered or unregistered, may not be prosecuted in criminal court, nor is it capable of ownership of any property or of suing or being sued in its own name.

Although admittedly, a registered society is endowed with an existence separate from that of its members for certain purposes, that is not to say that it is a legal person for the purposes of Sections 223 and 236 of the Act. Whereas a company can be regarded as having a complete legal personality, the same is not possible for a society, whose existence is closely connected, and even contingent, upon the persons who originally formed it. Inasmuch as a company enjoys an identity distinct from its original shareholders, whereas the society is undistinguishable, in some aspects, from its own members, that would qualify as a material distinction, which prevents societies from obtaining letters of administration.

The Patna High Court in K.C. Thomas v. R.L. Gadeock and Another, AIR (1970) Patna 163 held that a society registered under the Act enjoys the status of legal entity apart from the members constitution and is capable of suing of being sued. The said decision is not correct.

Sections 5 & 6 of the said Act read thus :

"5. Property of Society how vested - The property, moveable and immoveable, belonging to a Society registered under this Act, if not vested in trustees, shall be deemed to be vested for the time being in the governing body of such Society, and in all proceedings, civil and criminal, may be described as the property of the governing body of such Society by their proper title.

6. Suits by and against societies - Every society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the society, and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion :

Provided that it shall be competent for any person having a claim or demand against the society, to sue the president or chairman, or principal secretary or the trustees thereof, if on application to the governing body some other officer or person be not nominated to be the defendant."

Vesting of property, therefore, does not take place in the Society.

Similarly, the society cannot sue or be sued. It must sue or be sued through a person nominated in that behalf.

By way of an example Rule Section 7 of the A.P. (Telangana Area) Public Societies Registration Act, 1350 is reproduced hereinbelow :

"Suits by and against Society - Any such registered Society may sue or be sued in the name of the chairman or secretary or trustees, as shall be determined by the rules of the Society, and if there are no rules in this behalf, in the name of such person as shall be nominated by the managing committee for this purpose :

Provided that when a suit is instituted against such Society, the plaintiff shall apply to the managing committee of the Society to nominate any person to be made the defendant, and if the managing committee fails to nominate any person within a month or if, in the circumstances, the matter cannot be deferred so long, the plaintiff may sue the Society's chairman or secretary or trustees."

Section 15 of the Karnataka Societies Registration Act, 1960 provides :

"Suits by and against Society - Every Society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary or the trustees as shall be determined by the rules and regulations of the Society, and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion :

Provided that, it shall be competent for any person having a claim or demand against the Society, to sue the president or chairman, or principal secretary or the trustees thereof, if on application to the governing body, some officer or person be bot nominated to be the defendant."

Section 19 of the West Bengal Societies Registration Act, 1961 provides :

"Suits and proceedings by and against a Society. - (1) Every Society may sue or may be sued in the name of the President, the Secretary, or any office-bearer authorised by the governing body in this behalf.

(2) No suit or proceeding shall abate by reason of any vacancy or charge in the holder of the office of the President, the Secretary or any office-bearer authorised under sub-section (1).

(3) Every decree or order against a Society in any suit or proceeding shall be executable against the property of the Society and not against the person or the property of the President, the Secretary or any office bearer.

(4) Nothing in sub-section (3) shall exempt the President the Secretary or office-bearer of a Society from any criminal liability under this Act or entitle him to claim any contribution from the property of the Society in respect of any fine paid by him on conviction by a Criminal Court."

Similar is the position in the rules framed by some other States.

A bare perusal thereof would show that a society registered under the Societies Registration Act as contra-distinguished from a company registered under the Company Act cannot sue in its own name. It is to be sued in the name of the president, chairman, or principal secretary or trustees as shall be determined by the rules and regulations of the society or in the name of such person as shall be appointed by the Government Body for the occasion in default of such determination. It is, therefore, not correct to contend that it is capable of suing or being sued in its own name.

In Board of Trustees, Ayurvedic and Unani Tibia College, Delhi v. State of Delhi (Now Delhi Administration and Another, AIR (1962) SC 458, this Court clearly held that a society registered under the Societies Registration Act is not a corporation holding:

"There is authority of long standing for saying that the essence of a corporation consists in (1) lawful authority of incorporation, (2) the persons to be incorporated, (3) a name by which the persons are incorporated, (4) a place, and (5) words sufficient in law to show incorporation. No particular words are necessary for the creation of a corporation; any expression showing an intention to incorporate will be sufficient."

This Court in the aforementioned case noticed the provisions of the Societies Registration Act and rejected the contention that a society would be a corporation and, thus, a body-corporate in the following terms :

"We have therefore, come to the conclusion that the provisions aforesaid do not establish the main essential characteristic of a corporation aggregate, namely, that of an intention to incorporate the society. We may further observe that the scheme and provisions of the Societies Registration Act, 1860 are very similar to those of the Friendly Societies Act, 1896 (59 and 60 Vict. c. 25), as amended in certain respects by subsequent enactments. It is appropriate to quote here what Dennis Lloyd has said in his 'Law relating to Unincorporated Associations' (1938 edn.) at page 59 in respect of the provisions of the Friendly Societies Act, 1896 as modified by subsequent enactments. He has said :

"The modern legislation still maintains the policy of the older Acts in withholding corporate status from friendly societies. Registration does not result in incorporation, but merely entitles the society so registered to enjoy the privileges conferred by the Act. These privileges are of considerable importance and certain of them go a long way towards giving registered societies .... a status in many respects analogous to a corporation strictly so-called, but without being technically incorporated. Thus something in the nature of perpetual succession is conceded by the provision that the society's property is to vest in the trustees for the time being of the society for the use and benefit of the society and its members and of all persons claiming through the members according to the society's rules, and further (and this is the most noteworthy provision) that the property shall pass to succeeding trustees without assignment or transfer. In the same way, though the society, being unincorporated, is unable to sue and be sued in its own name, it is given the statutory privilege of suing and being sued in the name of its trustees."

We think that these observations made with regard to similar provisions of the Friendly Societies Act, correctly and succinctly summarise the legal position in respect of the several provisions of the Societies Registration Act, 1860. Those provisions undoubtedly give certain privileges to a society registered under that Act and the privileges are of considerable importance and some of those privileges are analogous to the privileges enjoyed by a corporation, but there is really no incorporation in the sense in which that word is legally understood."

It is a well-known principle of construction of statutes that all words employed therein must be given their full meaning unless the same results in absurdity. In Gurudevdatta VKSSS Maryadit v. State of Maharashtra, [2001] 4 SCC 534, it has been held :

"Further we wish to clarify that it is a cardinal principle of interpretation of statute that the words of a statute must be understood in their natural, ordinary or popular sense and construed according to their grammatical meaning, unless such construction leads to some absurdity or

unless there is something in the context or in the object of the statute to suggest to the contrary. The golden rule is that the words of a statute must prima facie be given their ordinary meaning. It is yet another rule of construction that when the words of the statute are clear, plain and unambiguous, then the courts are bound to give effect to that meaning, irrespective of the consequences. It is said that the words themselves best declare the intention of the law-giver."

In Sutters v. Briggs, (1992) 1 Appeal Cases 1, the Privy Council held :

"There is indeed no reason for limiting the natural and ordinary meaning of the words used. The term "holders or indorsees" means any holder and any indorsee, whether the holder be the original payee or a mere agent for him, and the rights of the drawer must be construed accordingly. The circumstance that the law apart from the section in question was repealed in 1845, without any repeal of the section itself, may lead to anomalies, but cannot have weight in construing the section."

In Dental Council of India and Another v. Hariprakash and Others. [2001] 8 SCC 61, it was held :

"The intention of the Legislature is primarily to be gathered from the language used in the statute, thus paying attention to what has been said as also to what has not been said. When the words used are not ambiguous, literal meaning has to be applied, which is the golden rule of interpretation."

We are further constrained to state that reliance upon the law of England is misplaced, since in that country, a probate may lawfully be granted to a company or to an association of persons, without the imposition of any condition. The application of British law, to Sections 223 and 236 of the Act, is therefore uncalled for. While it is true that a society registered under the Societies Registration Act does not suffer technically from all of the legal disabilities as the other prohibited classes of persons, as stipulated by Sections 223 and 226 of the Act, such as minors and persons of unsound mind but that by itself would not lead one to the conclusion that such a society would be a juristic person. Even assuming that registered societies could sue in their own name, that would not be enough to satisfy the requirement of having a complete and unassailable legal identity. By way of illustration, a Hindu Undivided Family, a partnership firm, or even a sole proprietary concern can sue or be sued in its own name, by virtue of the provisions contained in the Code of Civil Procedure, 1908. Nonetheless, that of its own accord, would not sufficiently establish that such entities have cured themselves of all the legal disabilities which bring them within the express prohibitions imposed by other satutes.

Section 2(7) of the Companies Act states :

"2(7) "body corporate" or "corporation" includes a company incorporated outside India but does not include -

(a) a corporation sole;

(b) a cooperative society registered under any law relating to cooperative societies; and

(c) any other both corporate (not being a company as defined in this Act) which the Central Government may, by notification in the Official Gazette, specify in this behalf."

We have delineated above the requisite fiduciary character of an administrator of the estate of the deceased, who must be accountable not only to the directions of the testator. as expressed in the testament, but also to the interests of the beneficiaries and the Court. The legislature has, in its wisdom, chosen to exclude unincorporated associations of

persons from the purview of eligible grantees of letters of administration; it is not, then, for the Court to legislate judicially by turning the plain meanings of the povisions on their head. Interpretation must remain interpretation, and not descend into interpolation.

It is well settled principles of law that a plain meaning must be attributed to the Statute. Also, a statute must be construed according to the intention of the legislature. The golden rule of interpretation of a statute is that it has to be given its literal and natural meaning. The intention of the legislature must be found out from the language employed in the statute itself. The question is not what is supposed to have been intended but what has been said. (See Dayal Singh v. Union of India, [2003] 2 SCC 593.

In Padma Sundara Rao (Dead) and Others v. State of T.N. and Others, [2002] 3 SCC 533, it was held :

"The rival pleas regarding rewriting of statute and casus omissus need careful consideration. It is well-settled pinciple in law that the court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the legislature. The langauge employed in a statute is the determinative factor of legislative intent. The first and primary rule of construction is that the intention of the legislation must be found in the words used by the legislature itself. The question is not what may be supposed and has been intended but what has been said. "Statutes should be construed, not as theorems of Euclid", Judge Learned Hand side, "but words must be construed with some imagination of the purposes which lie behind them". (Lenigh Valley Coal Co. v. Yensavage, (218 FR 547) The view was reiterated in Union of India v. filip Tiago De Gama of Vedem Vasco De Gama, AIR (1990) SC 981 : [1990] 1 SCC 277."

This Court again in Harbhajan Singh v. Press Council of India and Others, [2002] 3 SCC 722 stated the law thus :

"Clearly, the language of sub-section (7) of Section 6 abovesaid, is plain and simple. There are two manners of reading the provision. Read positively, it confers a right on a retiring member to seek renomination. Read in a negative manner, the provision speaks of a retiring member not being eligible for renomination for more than one term. The spell of ineligibility is cast on "renomination" of a member who is "retiring". The event determinative of eligibility or ineligibility is "renomination", and the person, by reference to whom it is to be read, is "a retiring member". "Retiring member" is to be read in contradistinction with a member/person retired sometime in the past, and so, would be called a retired or former member. "Re" means again, and is freely used as a prefix. It gives colour of "again" to the verb with which it is placed. "Renomination" is an act or process of being nominated again. Any person who had held office of member sometime in the past, if being nominated now, cannot be described as being "again nominated". It is only a member just retiring who can be called "being again nominated" or "re-nominated". No other meaning can be assigned except by doing violence to the language employed. The legislature does not waste its words. Ordinary, grammatical and full meaning is to be assigned to the words used while interpreting a provision to honour the rule - legislature chooses appropriate words to express what it intends, and therefore, must be attributed with such intention as is conveyed by the words employed so long as this does not result in absurdity or anomaly or unless material - intrinsic or external - is available to permit a departure from the rule. Cross in Statutory Interpretation (3rd Edn., 1995) states :

"The governing idea here is that if a statutory provision is intelligible in the context of ordinary language, it ought, without more, to be interpreted in accordance with the meaning an ordinary speaker of the language would ascribe to it as its obvious meaning, unless there is sufficient reason for a different interpretation. ... Thus, an 'ordinary

meaning' or 'grammatical meaning' does not imply that the Judge attributes a meaning to the words of a statute independently of their context or of the purpose of the statute, but rather that he adopts a meaning which is appropriate in relation to the immediately obvious and unresearched context and purpose in and for which they are used. By enabling citizens (and their advisers) to rely on ordinary meanings, unless notice is given to the contrary, the legislature contributes to legal certainty and predictability for citizens and to greater transparency in its own decisions, both of which are important values in a democratic society."

Yet again in M/s. Grasim Industries Ltd v. Collector of Customs Bombay, JT (2002) 3 SC 551, it is stated :

"No words or expressions used in any statute can be said to be redundant or superfluous. In matters of interpretation one should not concentrate too much on one word and pay too little attention to other words. No provision in the statute and no word in any section can be construed in isolation. Every provision and every word must be looked at generally and in the context in which it is used. It is said that every statute is an edict of the legislature. The elementary principle of interpreting any word while considering a statute is to gather the means or sententia legis of the legislature. Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the court to take upon itself the task of amending or altering the statutory provisions."

It is equally well settled that when the Legislature has employed a plain and unambiguous language, the Court is not concerned with the consequences arising therefrom. Recourse to interpretation of statutes may be resorted only when the meaning of the statute is obscure. The Court is not concerned with the reason as to why the Legislature thought it fit to lay emphasis on one category of suitors than the others. A statute must be read in its entirety for the purpose of finding out the purport and object thereof. The Court, in the event of its coming to the conclusion that a literal meaning is possible to be rendered, would not embark upon the exercise of judicial interpretation thereof and nothing is to be added or taken from statute unless it is held that the same would lead to an absurdity or manifest injustice. It is well-established that a disabling legislation must be characterized by clarity and precision. In the present instance, the prohibitions laid down by Sections 223 and 236 of the Act are categorical and comprehensive, and leave no scope for creative interpretation.

The Court, it is trite, cannot supply casus omissus. Reference in this regard may be made on Dr. Baliram Woman Hirav v. Mr. Justice B. Lentin and Others, AIR (1988) SC 2267, wherein it was observed :

"Law must be definite, and certain. If any of the features of the law can usefully be regarded as normative, it is such basic postulates as the requirement of consistency in judicial decision-making. It is this requirement of consistency that gives to the law much of its rigour. At the same time, there is need for flexibility. Professor H.L.A. Hart regarded as one of the leading thinkers of our time observes in his influential book "The Concept of Law", depicting the difficult task of a Judge to strike a balance between certainty and flexibility :

Where there is obscurity in the language of a statute, it results in confusion and disorder. No doubt the Courts so frame their judgments as to give the impression that their decisions are the necessary consequence of predetermined rules. In very simple cases it may be so; but in the vast majority of cases that trouble the Courts, neither statute nor procedents in which the rules are legitimately contained allow of only one result. In most important cases there is always a choice. The judge has to choose between alternative meanings to be given to the words of a statute of between rival interpretations of what a precedent amounts to. It is only the tradition that judges 'find' and do not 'make' law that conceals this,

and presents their decision as if they were deductions smoothly made from clear pre-existing rules without intrusion of the judge's choice"

(See also Kanta Devi (Suit.) v. Union of India and Another, [2003] 4 SCC 753).

In Shrimati Tarulata Shvam and Others v. Commissioner of Income-tax, West Bengal, [1977] 2 SCC 305, it was held that if there be a casus omissus, the defect can be remedied only by legislation and not by judicial interpretation.

Keeping in view the legislative policy we are of the opinion that the High Court was not correct in its view that an Administration can be granted in favour of a society registered under Act 21 of 1860.

The apprehension of the High Court that in a case of this nature, in the event, a Letter of Administration is not granted in favour of the beneficiary society, the purport of the 'Will' will be frustrated is not wholly correct and for grant of Letter of Administration what is necessary is that the person duly authorised by the Society in accordance with the law may file such an application.

Furthermore, the validity of the Sections 223 an 236 of the Act is not in question. So long the said provisions are not declared unconstitutional, the same must be allowed to hold their feild.

We may state that, as noticed hereinbefore, in terms of rules framed by States under the Societies Registration Act, a society may sue or may be sued through its President or Secretary or in absence of any specific provisions in that behalf, any person authorised by the Society.

Grant of probate in favour of society registered under the Societies Registration Act is refused, as discussed hereinbefore, inter alia on the ground it is not a juristic person. It, in a litigation, must be represented through a person authorised in this behalf either in terms of its bye-laws or otherwise. We, however, intend to lay emphasis on the fact that a will or gift in favour of a society is not totally unenforceable in law. A probate or Letter of Administration with a copy of the will annexed although may not be granted in favour of a society but may be granted in favour of a person authorised by a society either in terms of the statute or a resolution adopted in this behalf by the society, as the case may be, so that such person may be answerable to the Court. On grant of Letter of Administration the person so nominated by the society shall carry out the wishes of testator for the benefit of society.

Before parting, however, we may add that growing needs of the country in this field of law appears to have not received sufficient attention of the Parliament. Existing law is required to be suitable amended to meet the requirement of changing scenario.

A Society registered under the Societies Registration Act in the changed scenario play an important role in society. They discharge various functions which are beneficial to the society. They run educational and other institutions. They sometimes work in public interest and act in aid of State functions. They have their own accountability. They sometimes incur liabilities. Public Interest Litigations filed by Societies are galore.

For reasons stated above, the appeal is allowed in part. The judgment under challenge stand modified. The matter is sent back to the High Court with liberty to respondent to amend the petition for grant of Letter of Administration. It would be open to the respondent-society to nominate any of its office-bearer to whom Letter of Administration is granted. Such nominated person may move application for substitution for his name for grant of Letter of Administration. If such amendment application is made,

the High Court shall permit this amendment and grant Letter of Administration in favour of person nominated by the society for carrying of the wishes of the testator which is for the benefit of the society.