

(2019) 04 SHI CK 0039
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 301 Of 2017

Ambuja Darla Kashlog Mangoo Transport Co operative Society APPELLANT
Ltd Darlaghat

Vs

Shanti Devi And Another RESPONDENT

Date of Decision : 25-04-2019

Acts Referred:

Himachal Pradesh Co-operative Society Act, 1968 — Section 40, 72
Limitation Act, 1963 — Section 5

Citation : (2019) 04 SHI CK 0039

Hon'ble Judges : Sureshwar Thakur, J

Bench : Single Bench

Advocate : Sudhir Thakur, Anirudh Sharma, Neeraj Gupta, Rinki Kashmiri,
Sanjeev Bhushan, Abhilasha Kaundal

Final Decision : Disposed Off

Judgement

Sureshwar Thakur, J

One Santi Devi, instituted a case bearing Number 792 dated 4.4.2014, before, the Arbitrator O/o Assistant Registrar, Co-operative Societies, District Solan (H.P). The afore case was raised, under, the provisions of Section 40/72 of HP Co- op Societies Act, 1968. Through the afore petition, she had, sought a direction being pronounced, upon, one M/S Baghal Land Loosers Transport Co-op Society Ltd. Darlaghat qua the afore entity enlisting her, as, its member. Upon the afore case, the Inspector/Arbitrator concerned, made an affirmative order. The aggrieved therefrom i.e the Bhagal Land Loosers Transport Cooperative Societies Ltd. Darlaghat, preferred an appeal, before the Assistant Registrar Cooperative Societies Solan. The afore appeal was barred by limitation, and, an application cast under the provision of Section 5 of Limitation Act was appended therewith. However, the Assistant Registrar concerned, being dis-satisfied with the reasons enunciated, in the afore application, hence refused to condone the delay, and, dismissed the appeal, as, mis-constituted, it being beyond limitation.

The aggrieved therefrom preferred a Revision Petition, before the Deputy Registrar Cooperative Societies (Consumer) Directorate of Cooperation Himachal Pradesh, Shimla, and, thereupon, the latter made the impugned order. The afore authority/Officer who pronounced the impugned order, was required, to only confine himself/itself to the validity of the order borne, in Annexure A-4, yet it beyond the domain, of, the reasoning assigned in Annexure A-4, has proceeded to make an adjudication even, upon, the merits of the case. Consequently, the impugned order is ingrained with a gross illegality and impropriety. For undoing the afore gross impropriety and illegality, the matter is remanded to the Deputy Registrar Cooperative Societies (Consumer) Directorate of Cooperation Himachal Pradesh, to hence make a fresh decision, thereon within six weeks hereafter, after bearing in mind all the contentions raised therebefore by the learned counsel for the litigants concerned, and, after allowing or disallowing, through, reasons, hence their respective contentions, to, thereafater determine the validity of the order made by the Assistant Registrar concerned, vis-a-vis his/its dismissing the application, cast under the provisions of Section 5 of the limitation Act. The Officer making the impugned order, is, censured, and, hereafter, the remanded lis shall be adjudicated, by the Registrar Co- operative Societies.

In view of the above, the present petition stands disposed of alongwith all pending applications.