

(1988) 07 P&H CK 0041
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5445 of 1988

Gomti Devi

APPELLANT

Vs

Kalka Co-operative House Building Society Ltd.and ors.

RESPONDENT

Date of Decision : 22-07-1988

Acts Referred:

Citation : (1988) PLJ 416 : (1988) 2 RRR 417

Hon'ble Judges : M.M.Punchhi, J and Amarjeet Chaudhary, J

Advocate : Hemant Kumar Gupta, Advocate., Advocates for appearing Parties

Judgement

M.M. Punchhi and Amarjeet Chaudhary, JJ.

1. Replies have been filed on behalf of the Society and Secretary of the Society respondent No. 3.

2. The recovery against the husband of the petitioner, who was a member of a House Building Cooperative Society, was being effected under Section 104 of the Haryana Cooperative Societies Act, 1984, whereunder on grant of a certificate by the Registrar, it is taken conclusively proved that there are arrears due against the affected person and are recoverable as arrears of land revenue. There is no dispute that the husband of the petitioner is in arrears. Rather this fact is not being controverted anywhere except to the extent thereof. Be that as it may, the sum certified by the Registrar for the purposes of recovery as arrears of land revenue, cannot be allowed to be disputed so far as the action of the recovery is concerned. The process for recovery starts under Section 67 of Punjab Land Revenue Act as applicable to Haryana. There are eight steps postulated thereunder, under subheads (a) to (h) and arrest and detention of the defaulter is one such step.

3. In the instant case the writ petitioner has claimed that her husband was straightaway put to arrest and detention without resorting to other steps envisaged under Section 67 of the Punjab Land Revenue Act. We are of the view that the arrest and detention of a person, in a matter like the present one,

should normally be the last resort, for it cannot be assumed that the man who wanted to have a roof over him, by becoming a member of the House Building Cooperative Society, to have bargained so cheaply his fundamental right to liberty. Nothing abnormal has been suggested to the taking of such step. Without much ado, we allow this petition, permit the defaulter to remain at large and leave it to the respondent to recover the arrears firstly by other means of recovery under the Punjab Land Revenue Act and on recording their satisfaction that the steps taken by them do not fructify, then resort to arrest and detention of the petitioner.