
(2013) 08 P&H CK 0273
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 15848 of 1992

Ishar Dass

APPELLANT

Vs

Additional Registrar (C) Cooperative Societies and Others

RESPONDENT

Date of Decision : 01-08-2013

Acts Referred:

Citation : (2013) 08 P&H CK 0273

Hon'ble Judges : Ajay Tewari, J

Bench : Single Bench

Advocate : M.S. Kang, for the Appellant; Ruminderjit Singh, Advocate for Mr. R.P. Dhir, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Ajay Tewari, J.—By way of this writ petition, the petitioner challenges the Award dated 6.4.1989 (Annexure P-1), the appellate order dated 31.8.1990 (Annexure P-2), and the revisional order dated 1.4.1991 (Annexure P-4), whereby he has been asked to discharge the surety he had provided for the good conduct of his son. Brief facts of the case are that the son of the petitioner, namely, Sarup Singh went missing w.e.f. 1.6.1981. The said Sarup Singh was working as Cashier-cum-Salesman of respondent No. 3-Society. He came to Hoshiarpur for depositing a sum of Rs. 23,000/- of the respondent-Society for remittance to the Bank on 1.6.1981 but the same could not be remitted and he was not known to be alive thereafter. A civil suit was filed by his wife for declaration that he was dead, which was decreed in her favour. Thereafter, the Managing Committee of the Society obtained search warrants and broke opened the lock and took the essential commodities and fertilizer in its charge and found that there was a shortage of Rs. 8945.22 in the stock register of the society. Accordingly, the respondent-Society raised a dispute for recovery of the said amount. The Assistant Registrar passed an Award (Annexure P-1) holding the petitioner, being the surety of his missing son, to pay the entire amount to the respondent-Society along with cost and interest totalling Rs. 9658/-. As noticed above, the

appeal as well as the revision filed against the said Award having been dismissed, the petitioner is before this Court.

2. Counsel for the petitioner has argued that the Award is completely non-speaking. He has placed reliance upon a decision of this Court in Satish Mohindroo and Others Vs. Assistant Registrar, Cooperative Societies and Others, and particularly para 10 thereof, a relevant portion of which is to the following effect :-

... A bare perusal of the aforesaid rule, makes it clear that the arbitrator was to hear the parties and the witnesses who attended. And this hearing should be apparent from the record, meaning thereby that what was said by them should have been recorded. Such statements were to be treated as evidence. It is on the basis of such evidence and after consideration of any documentary evidence that the arbitrator was required to pass the order on the election dispute. The impugned order Annexure P10 does not show compliance of the above rule. It was conceded on behalf of the respondent that no evidence was recorded, and after hearing counsel the impugned order was passed. Thus, the findings arrived at by the arbitrator in the impugned order Annexure P10 are based on surmises and conjectures and not on evidence. It has been argued on behalf of the respondents that the election dispute petition was verified and the facts mentioned therein could be acted upon. This contention cannot be accepted. The verification of facts mentioned in the application is not on affirmation or affidavit, as is clear from Annexure P6. Thus, the facts mentioned in Annexure P6 could not be treated as proved....

3. Counsel for the petitioner has further argued that a similar claim of Rs. 23,070/- was also raised by the respondent-Society and with regard to this claim, a similar award had been passed against the petitioner and ultimately, this Court set aside the same by judgment dated 21.7.2011, passed in CWP No. 14078 of 1991, Ishar Dass vs. The State of Punjab and others. In view of what has been noticed herein above, I find that the petitioner has made a case for quashing the impugned Award/orders. Resultantly, this writ petition is allowed and the impugned Award/orders are set aside, with no order as to costs.