
(2001) 03 RAJ CK 0077

In the Rajasthan High Court

Case No : Civil Revision Petition No. 349 of 2001

Kulwant Rai Handa

APPELLANT

Vs

Lakshman Swaroop Sharma and Others

RESPONDENT

Date of Decision : 28-03-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 340
Rajasthan Co-operative Societies Act, 1965 — Section 137, 75

Citation : (2002) 1 RLW 92 : (2001) 4 WLC 572 : (2001) 4 WLN 56

Hon'ble Judges : Shiv Kumar Sharma, J

Bench : Single Bench

Advocate : R.P. Singh, for the Appellant; C.K. Garg and Sunil Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Sharma, J.

(1). The petitioner in the instant revision seeks to quash the order dated February 22, 2001 passed by the learned Additional District Judge No. 8 Jaipur City Jaipur confirming the order dated September 4, 2000 of the learned Additional Civil Judge (Junior Division) No.2 Jaipur City in Execution No. 61 of 1996.

(2). The only contention advanced before me by Mr. R.P. Singh, learned counsel appearing for the petitioner is that the civil court had no jurisdiction to enter into the merits of a dispute settled under the Rajasthan Cooperative Societies Act, 1965 (in short 1965 Act), particularly in view of Section 137 of the 1965 Act which bars the jurisdiction of the civil courts in such matters. My attention was also drawn towards the provisions contained in Section 75 of 1965 Act. Under the impugned order the learned executing court directed that the possession of the plot be restored to the respondents and an enquiry u/s 340 Cr. P.C. be initiated against the petitioner. Aforequoted observations were made by the learned executing court after framing the following two questions:

(1) Whether the plot in dispute was No. 56 and the petitioner had mis-stated the facts in execution showing it as 55A and thus took the possession?

(2) Whether the respondents were entitled to take possession of Plot No. 56 from the petitioner?

The respondent Laxman Swaroop Sharma examined himself as P.W.2, and produced Rishabh Chand Jain as PW.1, Som Dull Vyas as PW. 3 and Kanhaiya Lal as PW. 4 and exhibited as many as 162 documents. The petitioner on the other hand examined himself as NAW 1, Onkar Singh NAW 2, Pappuram NAW 3, Gulab Chand NAW 4 and Mohan Lal NAW 5 and exhibited as many as 20 documents. The matter was filed before the learned Executing Court on the basis of a certificate which was issued u/s 118 (1) of 1965 Act.

(3). After having heard learned counsel appearing for the petitioner and after scanning the record I am of the view that the courts below have not committed any jurisdictional error in passing the impugned orders and if the said orders are allowed to stand, failure of justice would not be occasioned.

(4). Sub-section CO of Section 118 of 1965 Act provides thus:

"118. Execution of orders, etc.- (1) Every order made by the Registrar under Sub-section (2) of Section 74 or u/s 117, every decision or award made u/s 77, every order made by the liquidator u/s 80 and every order made by the Tribunal under Sections 123, 125, 126 or 127 and every order made u/s 124 shall, if not carried out,-

(a) on a certificate signed by the Registrar, or any person authorised by him in this behalf, be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court; or

(b) be executed according to the law and under the Rules for the time being in force for the recovery of arrears of land revenue;

Provided that any application for the recovery in such manner of any sum shall be made,-

(i) to the Collector and shall be accompanied by a certificate signed by the Registrar or by any person authorised b him in this behalf;

(ii) within twelve years from the date fixed In the order, decision or award and if no such date is fixed, from the date of the order, decision or award, as the case may be;

(c) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf by the attachment and sale or sale without attachment of any properly of the person or a cooperative society against whom the order, decision or award has been obtained or passed."

(5). A look at the aforesaid provision demonstrates that certificate signed by the Registrar or any person authorised by him shall be deemed to be a decree of the

civil court and shall be executed in the same manner as a decree of such court. I am not impressed by the submission of the learned counsel that in the matter of certificate issued by the Registrar, the jurisdiction of the civil court is barred under sections 137 and 75 of the 1965 Act. The provisions contained in Section 118 are self explanatory and the provisions of Sections 137 and 75 of the 1965 Act do not obstruct the rights of the parties arose in view of certificate signed by the Registrar as provided under Sub-section (1) of Section 118 of 1965 Act.

(6). Resultantly, the revision being devoid of any merit stands dismissed without any order as to costs.