
(1997) 03 P&H CK 0134
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5414 of 1982

Luxmi Chand

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 04-03-1997

Acts Referred:

Citation : (1997) 116 PLR 628 : (1997) 3 RCR(Civil) 684

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : Prem Singh, for the Appellant; Vimal Kumar and R.P. Dahiya, for the Respondent

Final Decision : Allowed

Judgement

T.H.B. Chalapathi, J.—This writ petition is filed challenging the award passed by the Assistant Registrar of C-operative Societies dated March 30, 1982, (Annexure P-2).

2. Respondent No, 3 entered into an agreement with Luxmi Chand, the manager of the Nuh Primary Co-operative Land development Bank Limited, District Gurgaon, for supply of diesel engines to the members of the bank on credit. On the ground that respondent No. 3 committed irregularities in supplying diesel engines the Managing Committee of the Bank black listed the firm and adjusted the security furnished by the firm towards the loan instalments of the complainant one Shri Rahimuddin. Thereafter, the firm filed an application before the Assistant Registrar of Co-operative Societies raising a dispute Under Sections 55 and 56 of the Punjab Co-operative Societies Act. By the impugned order the Assistant Registrar, Cooperative Societies, directed the petitioner to pay a sum of Rs. 2,000/- which was illegally adjusted by the Manager Luxmi Chand towards the loan amount of Shri Rahimuddin. The award passed by the assistant Registrar shows that he exercised his powers u/s 55 and 56 of the Act. The appeal filed by the petitioner was rejected on the ground that the dispute raised by the firm will not come within the purview of either Section 55 or Section 56 of

the Act and any dispute between the parties has to be referred to the Registrar of Co-operative Societies, Haryana, under the agreement which was entered between the parties and, therefore, no appeal lies and accordingly the appeal was rejected, however, the petitioner was given the liberty to challenge the dispute before the competent authority. Therefore, the petitioner has approached this Court.

3. In this writ petition, the only point to be decided is whether the Assistant Registrar is competent to decide the dispute between respondent No. 3 and the petitioner. Admittedly, an agreement was entered between respondent No. 3 and the respondent No. 4 for the supply of agricultural machinery to the farmers of the area who were the members of the bank. The security amount was forfeited in pursuance of the agreement entered between the parties. Clause 9 of the said agreement provides as follows:-

"In case of any dispute between the parties, the matter will be referred to the Registrar, Co-operative Societies, Haryana, for arbitration and his decision will be final and binding on the parties."

The Assistant Registrar, Co-operative Societies, purported to exercise his power in a petition filed by respondent No. 3 u/s 55 of the Punjab Co-operative Societies Act, 1961. Under the said section,

"If any dispute touching the constitution, management or the business of a co-operative society arises-

- a) among members, past members and persons claiming through members, past members and deceased members; or
- b) between a member, past member, or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society or liquidator, past or present; or
- c) between the society or its committee and past committee, any officer, agent or employee, or any past officer, agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased employee of the society; or
- d) between the society and any other co-operative society, between a society and liquidator or another society or between the liquidator of one society and the liquidator of another society;

such disputes shall be referred to the Registrar for decision and no Court shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute."

4. Admittedly, the dispute in this case is not between the members or past members of the society or between the members and the society or its committee or officer or between the society and its employees or between the two co-operative societies. This is a dispute raised by the firm which entered into

an agreement with the Bank for supply of agricultural machinery. Therefore, such a dispute is not covered by Section 55 of the Act. So, the Assistant Registrar cannot decide the dispute u/s 55 of the Punjab Co-operative Societies Act.

5. Clause 9 of the agreement provides that any dispute between the parties to the said agreement will be referred to the Registrar of Co-operative Societies, Haryana for arbitration and his decision will be final and binding on the parties. It is, therefore, to be seen whether the Assistant Registrar can be deemed to be the Registrar for the purposes of Clause 9 of the agreement. Admittedly, there is a Registrar of the Co-operative Societies for the State of Haryana but the Registrar was defined in Section 2(j) of the Punjab Co-operative Societies Act according to which Registrar means a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act.

Therefore, any other person who has been appointed to perform the functions of the Registrar under this Act can also be deemed as Registrar for the purposes of the Act only. The dispute which was raised by respondent No. 3 is not the dispute while deciding the dispute between the respondent No. 3 and the petitioner and the bank is not discharging or performing the functions of the Registrar under the Act. The dispute is outside the purview of the co-operative societies Act in which case the Assistant Registrar has no power to decide the same. It is the person who has been named as the Arbitrator, alone, has the power to decide the dispute. The person named in the agreement is the Registrar, Co-operative Societies, Haryana. Therefore, the Assistant Registrar cannot decide the dispute raised by the private party claiming any relief either against the society or its employees. It is the Arbitrator who has been named in the agreement alone has the power to decide such a dispute.

6. In this view of the matter, I am of the opinion that the orders of the Assistant Registrar, Co-operative Societies in exercise of his powers u/s 55 of the Act are liable to be quashed as those orders have been passed without jurisdiction. Therefore, the award passed by the Assistant Registrar, dated March 30, 1982, is hereby quashed.

7. Writ petition is accordingly allowed.