
(2015) 01 MP CK 0087
In the Madhya Pradesh High Court
Case No : Writ Petition No. 4978 of 2014

Mohammed Yusuf

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 06-01-2015

Acts Referred:

Madhya Pradesh Co-operative Societies Act, 1960 — Section 77, 77(14), 80-A

Citation : (2015) 3 MPHT 363 : (2015) 2 MPLJ 343

Hon'ble Judges : Rajendra Menon, J; S.K. Gangele, J

Bench : Division Bench

Advocate : Pushpendra Yadav, for the Appellant; S.M. Lal, Government Advocate, Advocates for the Respondent

Final Decision : Allowed

Judgement

1. Shri Pushpendra Yadav for the petitioner.

Shri S.M. Lal, Government Advocate, for the State.

Shri Manish Tiwari for respondent No. 4.

Challenging the order dated 18-6-2012 - Annexure P/1, passed by the M.P. State Co-operative Tribunal rejecting a revision filed by the petitioner under section 77(14) of the M.P. Co-operative Societies Act, 1960, this writ petition has been filed.

2. Petitioner took a loan for installation of a pump and construction of well, and on non-payment of the loan the authorities of the Bank initiated proceedings for recovery of the amount under the M.P. Sahakari Bhoomi Vikas Bank Adhiniyam, 1966 (hereinafter referred to as the "Adhiniyam of 1966") and the Rules framed thereunder.

3. Challenging the proceedings initiated for auction and the action taken under the said statutory provision, a revision was filed before the Tribunal under section 77(14) of the M.P. Co-operative Societies Act, 1960 and placing reliance on a

judgment of this Court in the case *Munshi Lal Rathore and Others Vs. Zila Sahakari Bhumi Vikas Bank and Others*, (2011) ILR (MP) 1693 : (2011) 3 MPHT 425 , the revision has been dismissed on the ground that against the order passed under the Adhiniyam of 1966, revision is not maintainable.

4. Shri Pushpendra Dubey, learned counsel for the petitioner, took us through the order passed in the case of *Munshi Lal Rathore* (supra); the provisions of section 80-A of the M.P. Co-operative Societies Act; and, the provision of section 77(14) of the Adhiniyam of 1960, and emphasized that a revision was maintainable and the learned Tribunal, incorrectly applying the provision of section 80-A and the principle laid down in the case of *Munshi Lal Rathore* (supra), has dismissed the revision.

5. Shri Pushpendra Yadav, learned counsel for the petitioner, also refers to an order passed by a learned Single Bench of this Court on 25-6-2008, in Writ Petition No. 6595/2006, *Maharaj Singh v. State of M.P. and others* to canvass his contention that the revision under section 77(14) was maintainable before the Tribunal.

6. Even though Shri Manish Tiwari, learned counsel appearing for respondent No. 4, refuted the aforesaid contention, but on going through the provisions of section 77(14) and section 80-A of the M.P. Co-operative Societies Act, 1960, we find sub-section (14) of section 77 gives power to the Co-operative Tribunal either to initiate proceedings suo motu or on an application by any of the parties to call for and examine the record of any proceedings, in which an appeal is not provided.

7. For the sake of convenience, sub-section (14) of section 77, which is relevant, reads as under:--

"77. M.P. State Co-operative Tribunal:--

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(14) The Tribunal may suo motu or on the application of a party, call for and examine the record of any proceedings in which no appeal lies to it, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed. If in the case, it appears to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as it may deem just."

8. Section 80-A of the M.P. Co-operative Societies Act, 1960, on the other hand deals with the power of the Registrar for exercising the powers of suo motu revision or exercise such powers on an application made by the party, but such powers are to be exercised only with regard to proceedings held by subordinate Officers of the Registrar. The provision of section 80-A may not be applicable in cases where the proceedings are held under the Adhiniyam of 1966, but when an

order is passed under the Adhiniyam of 1966 and the Tribunal under section 77(14), as reproduced hereinabove, is wide enough as the Tribunal has powers to call for records in any proceeding and examine it when no appeal is provided. This question has been considered by this Court in the case of Maharaj Singh - Writ Petition No. 6595/2006 and it was held that a revision under section 77(14) was maintainable.

9. As far as the judgment in the case of Munshi Lal Rathore (supra) is concerned, the same pertains to exercise of powers of revision by the Registrar under section 80-A and not by the Tribunal under section 77(14). The Tribunal has wide powers under section 77(14) and we have no doubt that the order impugned passed under the Adhiniyam of 1966 was maintainable and the Tribunal by incorrectly applying the law laid down in the case of Munshi Lal Rathore (supra) has dismissed the revision. We hold that the revision in the facts and circumstances of the case was maintainable. Accordingly, this petition is allowed. Order dated 18-6-2012 -Annexure P/1 passed by the Tribunal is quashed and the matter is remanded back to the Tribunal to proceed and decide the revision petition afresh in accordance with law after hearing all concerned.

CC as per rules.