

(1990) 11 P&H CK 0053
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1513 of 1985

Mukhtiar Singh and anr

APPELLANT

Vs

Jai Singh

RESPONDENT

Date of Decision : 07-11-1990

Acts Referred:

Citation : (1990) PLJ 41 : (1990) 1 RRR 332

Hon'ble Judges : G.C.Mital, J

Advocate : J.S. Taccoria, Advocates., R.S. Taccoria, Advocates for appearing Parties

Judgement

G.C. Mital, J.

1. Election of the Managing Committee of Amin Cooperative Credit and Service Society Ltd. Amin, Tehsil and District Karnal, was held on 28.1.1988. The defeated candidate filed a petition under section 102 of the Haryana Cooperative Societies Act, 1984, before the Deputy Registrar, Cooperative Societies, Karnal, but the petition was dismissed. Under the Act, the order of the Deputy Registrar is appealable to the Registrar, Cooperative Societies and is further revisable by the State Government under the Act. No appeal or revision seems to have been filed.

2. Jai Singh who is also an elected member of the Managing Committee, filed a suit to impugn the election of Mukhtiar Singh and Dewa Singh as members of the Managing Committee held on 28.1.1988 in order to seek declaration that the election of Mukhtiar Singh and Dewa Singh was illegal and it should be declared so. He also filed an application under Order 39, Rules I and 2 of the C.P.C. to restrain the aforesaid two persons from acting as members of the Managing Committee. Both the Courts below have granted injunction to restrain the two elected as members of the Managing committee named above, for the reasons stated in their orders. The main reason is that they were defaulters and, therefore, could not be, the candidates in the election of the Managing Committee.

3. Prima facie , such a suit is not within the domain of the civil Court. The learned counsel for the plaintiffs has not been able to show as to how the provisions of the Act can be circumvented and instead a civil suit could be entertained. The Act provides for a remedy to challenge such an election on all grounds. Even if there is a bar to the jurisdiction of the civil Court to entertain the dispute which can be raised under the Act before the competent authorities, yet Civil suit can be entertained on specified grounds as held by this Court and the Supreme Court. Matters which have been discussed by the two Courts below in granting injunction are not the grounds to entertain a suit prima facie.

4. For the reasons recorded above, the revision is allowed and the orders of the two Courts below restraining the two elected defendants from acting as members of the Managing Committee, are set aside application filed under Order 39, Rules 1 and 2 of the C.P.C. is dismissed, leaving the parties to bear their own costs.