
(1993) 05 P&H CK 0027
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2175 of 1982

Paras Ram

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 14-05-1993

Acts Referred:

Punjab Co-operative Societies Act, 1961 — Section 22, 55, 56, 63

Citation : (1993) 105 PLR 373

Hon'ble Judges : Ashok Bhan, J

Bench : Single Bench

Advocate : S.S. Dalal, for the Appellant; S.S. Gouripuria, A.A.G., for the Respondent

Judgement

Ashok Bhan, J.—Subhash Chander, deceased (hereinafter referred to as deceased) was a son of Paras Ram petitioner (hereinafter referred as the petitioner). The deceased was employed as clerk with the Hissar District Central Co-operative Bank Ltd., Hissar. Deceased was sent on deputation to Hansi Farming Co-operative Credit & Service Society respondent No. 4 in the year 1975 and the deceased was absorbed in the services by bank as Secretary in the year 1975. Subhash Chander died in the year 1975.

2. Deceased had misappropriated a sum of Rs. 12,007.02 paise. In order to recover this money after the death of the deceased a dispute was raised and the matter referred to an Arbitrator for adjudication and the deceased was shown to be represented by Paras Ram petitioner. Petitioner took up the stand that he had disowned his deceased son in the year 1973 before the Gram Panchayat of village Sisai and in respect munadi was made by the Gram Panchayat in the village; that he could not be made responsible for the acts of his deceased son; that the petitioner was neither a member of the Society nor a legal heir of the deceased as the deceased had not left any estate behind to which the petitioner succeeded. This plea of the petitioner was not accepted by the Arbitrator vide award dated September 29, 1981 Annexure P-1 to the writ petition. Petitioner

was held liable to pay Rs. 11270-12 paise as principal amount, Rs. 2083.88 paise as interest and Rs. 50/- as costs, thus making it a total of Rs. 13,405/- payable by the petitioner.

3. Petitioner filed an appeal against this order before Deputy Secretary to Government Haryana Co-operative Department, Chandigarh who was then exercising the powers of Government under Sections 68 and 69 of the Punjab Co-operative Societies Act, 1961, as applicable to the State of Haryana. Petitioner raised the same pleas which he has raised before the Arbitrator. The appeal was rejected by the Appellate Authority on 16.2.1982 vide Annexure P-2 to the writ petition. Petitioner being aggrieved has come to this Court impugning the orders passed by the Arbitrator and the Appellate Authority Annexures P-1 and P-2 to the writ petition.

4. It has been argued by the learned counsel for the petitioner that he had not inherited any estate of the deceased and, therefore, could not be held liable for the debts or other liabilities incurred by the deceased. There is no evidence on the record to show that the petitioner had inherited the estate left behind by the deceased. Petitioner was neither a member of the Society nor he had stood surety for the deceased. Reliance was placed upon the authority of this Court in case Subhash Chander v. The State of Haryana and Ors. 1980 P.L.J. 497, wherein it was held:

"The settled proposition of law is that recovery of an amount due from a deceased person can be made only from his estate in the hands of his heirs and not personally from the heirs. This fact could not be controverted in law by the counsel appearing on behalf of the respondents."

5. I find force in the plea raised by the counsel for the petitioner that the amount due from the deceased could not be recovered from the petitioner as he had not succeeded to the estate of the deceased. He could not be made personally liable for the debts or the liabilities incurred by the deceased. Since in this case the petitioner did not succeed to the estate of the deceased he could not be held liable to discharge the liabilities incurred by the deceased personally. Accordingly, this writ petition is allowed with costs, counsel's fee being Rs. 500/- Annexures P-1 and P-2 are quashed. It is made clear that it shall be open to the respondents to make recovery of the debts of the deceased from the estate of the deceased in the hands of a person who succeeded to the estate of the deceased to the extent of inheritance.