(2010) 03 P&H CK 0196

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 6814 of 2009 ; 6815 of 2009

Rajinder Singh APPELLANT

Vs

Union Bank of India RESPONDENT

Date of Decision : 02-03-2010

Acts Referred:

Haryana Agriculture Credit Operations and Miscellaneous Provisions (Banks) Act, 1973 — Section 8(1)

Citation : (2010) 3 RCR(Civil) 354

Hon'ble Judges : Nawab Singh, J

Judgement

Nawab Sing, J.

1 This judgment shall dispose of above noted two revisions as the identical question of law and facts are involved in both the revisions.

2 Challenge is to (i) the order dated September 2nd, 2009 (Annexure P3) passed by SubDivisional Officer (Civil), Kaithal (hereinafter referred to as ''the Prescribed Authority'' under the Haryana Agricultural Credit Operations & Miscellaneous Provisions (Bank) Act, 197 or sort ''the Act''), whereby, applications (Annexure P2) filed by the petitionersagriculturists for settingaside the exparte order dated December 24th, 2007 (Annexure Pl), were dismissed arid; (ii) exparte order dated December 12th, 2007 vide which the petitioners were directed to make the payment of Rs. 3,49,876/ due to the Bank under Section 8(1) of the Act.

3 . Rajinder Singh and Jagdev Singh took loan of Rs. 2,75,000/ each from Union Bank of India, Kaithal on September 20th, 2004 for purchasing a tractor and installing a tubewell respectively. Since there was default in payment of loan, Union Bank of Indiarespondent moved applications under Section 8(1) of the Act for the recovery of Rs. 3,49,876/. The applications were decided ex parte by the Prescribed Authority on December 24th, 2007. Petitioners filed applications for settingaside the order of the Prescribed Authority on the ground that they were never served with notice. The said applications were dismissed by the impugned orders.

4 For facilitation, the impugned order (Annexure P/3) is reproduced as under :

"Case was called for Counsel heard. The applicant''s application is dismissed on merits and stay granted is vacated. File be consigned to the records."

5 A bare reading of the aforesaid orders shows that the Prescribed Authority has not, at all dealt with the contention of the petitioners that they were never served upon in the application filed by the Bank. It was just passed mechanically without application of judicial mind. The Prescribed Authority has only mentioned that the application is dismissed on ''merits''. Perhaps, the Prescribed Authority is oblivious of the meaning of word ''merit'' whereas it has not even remotely touched the merits of the case. It should have adjudicated upon the rival contentions raised by respective parties but it is disgusting to note that the same has not been resorted to. It smacks that the order under challenge is passed in a cursory manner disclosing no reason for the rejection of the application. The law abhors such a nonspeaking order which cannot stand the test of judicial scrutiny. Same is the position with regard to order dated December 24th, 2007 (Annexure Pl) which too has been passed without discussing the evidence on record. Nothing has been indicated in the order as to who proved the mortgage deed and copy of agreement on the record. Virtually, the Prescribed Authority has bypassed the principles of natural justice and fair play.

6 In view of the above, the revision petitions are accepted and the impugned orders dated September 2nd, 2009 (Annexure P/3) and December 24th, 2007 (Annexure Pl) are setaside. Accordingly, the Prescribed Authority is directed to decide the applications filed by the Bank under Section 8(1) of the Act afresh after affording opportunities to the parties.

