
(1985) 05 P&H CK 0071
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3590 of 1975

Ram Parkash

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 01-05-1985

Acts Referred:

Citation : (1985) ILR (P&H) 473 : (1985) PLJ 377 : (1985) RRR 375

Hon'ble Judges : I.S.Tiwana, J

Advocate : Mr. G. S. Sandhu, Advocate., Advocates for appearing Parties

Judgement

I. S. Tiwana, J. (Oral)

1. An Industrial Cooperative Society by the name of "Praveen Engineering Workshop Cooperative Society Limited"" raised a loan from the Ludhiana Central Cooperative Bank respondent No. 3 and to ensure the repayment of this amount pledged two houses Nos. 988 and 749 in favour of the Bank.

2. As a dispute arose between the Society and the Bank, the matter was referred to the Arbitrator, who gave an award of Rs. 70,000/ against the Society. Then the Bank took steps to realise this amount (Rs. 70,000/ Principal + Rs. 3582.30 Interest + Rs. 250/ other expenses, total Rs. 73832.30) as arrears of loan. As a matter of fact, a writ of demand was issued to the petitioners under Section 68 of the Punjab Land Revenue Act 1887 by the Industrial Assistant Registrar, Cooperative Societies, Ludhiana, exercising the powers of the Assistant Collector 1st Grade. The petitioners now impugn this action of the Assistant Registrar inasmuch as the said authority is proceeding to recover this amount from the petitioners personally and intends to even put them under arrest for this recovery. In the replies which have filed on behalf of the Bank and the Assistant Registrar, it is conceded that in the award sought to be executed against the petitioners, it has been specifically mentioned that "the total amount can be recovered by sale of the property mortgaged with the Bank or from any other property belonging to the Society or from both"". In the face of this stand of the respondents, the amount in question can obviously be not realised from the

petitioners personally and the Bank is well entitled to realise the same by the sale of the properties pledged in its favour. The action of the Assistant Registrar referred to above to recover the amount noted above from the properties or the persons of the petitioners cannot be possibly sustained.

3. I, therefore, allow this petition to the limited extent that the Assistant Registrar while proceeding to recover the abovenoted amount would not proceed against the person and properties of the petitioners. This, however, is made clear that the two houses referred to above, which were pledged in favour of the Bank and are now sought to be claimed by the petitioners as their personal property they would not be heard to claim this as the said houses already stand pledged with the Bank for the repayment of the loan the Society had taken. In other words, the said two houses would be liable for the realisation of the amount awarded in favour of the Bank. No costs.