(2007) 11 P&H CK 0070

In the Punjab And Haryana At Chandigarh

Tarn Taran Primary Cooperative Agricultural Development Bank Ltd. — APPELLANT

Vs

Financial Commissioner Cooperation and Others — RESPONDENT

Date of Decision : 22-11-2007

Acts Referred:
Constitution of India, 1950 — Article 226, 227

Citation : (2008) 149 PLR 255 : (2009) 5 RCR(Civil) 484

Hon'ble Judges : Satish Kumar Mittal, J;K.C. Puri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

K.C. Puri, J.—The Tarn Taran Primary Cooperative Agricultural Development Bank Limited has preferred this writ petition under Articles 226/227 of the Constitutional of India for quashing the appellate order dated 14.3.2002 passed by the Additional Registrar Cooperative Societies - respondent No. 2 and revisional order dated 1.10.2004 passed by the Financial Commissioner Cooperation, Punjab.

2. The petitioner resorted to arbitration proceedings under Punjab Cooperative Societies Act, 1961 (hereinafter to be mentioned as ''the Act'') claiming the amount of Rs,30,000/- from Baldev Singh and Sukhwant Singh, sons of Joginder Singh resident of village Bagrian, Tehsil Tam Taran. According to the petitioner Baldev Singh and Sukhwant Singh purchased a tractor in the year 1971 by raising loan from Tarn Taran Primary Cooperative Agricultural Development Bank Limited (hereinafter to be mentioned as ''the bank'') after mortgaging their properties in favour of the Bank. The petitioner delivered a cheque of loan amount in favour of M/s Farmer Tractor House, for purchase of tractor by the loanees - Baldev Singh and Sukhwant Singh. The said loanees had not made the repayment of the loan amount, hence arbitration proceedings were resorted to by the bank against the loanees u/s 55/56 of the Act, in the year 1976 and the dispute was decided in favour of the bank on 21.4.1976. The loanees filed an

appeal u/s 68 of the Act, which was dismissed by the appellate authority. The loanees filed revision petition before the Deputy Secretary Cooperation against the award as well as the appellate order. During the pendency of that revision petition, the bank resorted to execution of the award and the land of the loanees was auctioned under the provisions of Punjab Land Mortgage Bank Act, 1957. The loanees challenged the sale before the Registrar and the sale was set aside by the Registrar and case was remanded to the Assistant Registrar Cooperative Societies, Amritsar for fresh sale. Thereafter, the deputy Registrar issued auction notice dated 23.5.1997 against which the loanees again filed a revision petition before the Government and the Additional Secretary Cooperation, Punjab vide order dated 12.8.1998 directed the Deputy Registrar Co-operative Societies. Amritsar to decide the case of arbitration afresh in accordance with law in view of earlier revisional order dated 31.10.1983. After the remand order, the Deputy Registrar Cooperative Societies, Amritsar decided the case on 18.3.1999 against the bank. However, the Deputy Registrar Cooperative Societies, Amritsar appointed a Commission to ascertain the purchase of tractor. The bank filed an appeal u/s 68 of the Act before the Registrar, which was entrusted to the Joint Registrar (Milk Supply) Cooperative Societies, Punjab, who vide his order dated 26.11.1999 set-aside the order dated 18.3.1999. As per the order passed by the Joint Registrar Cooperative Societies, a fresh arbitration case was prepared by the bank and was filed before the Deputy Registrar, Cooperative Societies, Amritsar. The Deputy Registrar decided the case in favour of the bank vide order dated 5.9.2000. An appeal u/s 68 of the Act was preferred by the loanees and the Additional Registrar vide order date 14.3.2002 accepted the appeal, reversing the award dated 5.9.2000.

3. It is the submission of the counsel for the petitioner that the appeal was time barred and without condoning the delay the appeal was accepted. The bank preferred the revision petition u/s 69 of the Act before the Financial Commissioner Cooperative, Punjab challenging the order of appellate authority but the said revision petition was also dismissed vide order dated 1.10.2004.

4. Aggrieved by the abovesaid order dated 14.3.2002 passed by the Additional Registrar and order dated 1.10.2004 passed by the Financial Commissioner Cooperation, Punjab, the present writ petition has been filed.

5. The writ petition has been contested by the respondents.

6. We have heard both the sides and have carefully, gone through the record of the case.

7. So far the facts of the case are concerned, the same are not disputed. Baldev Singh and Sukhwant Singh approached the bank for grant of loan to the extent of Rs. 3 0,000/- and necessary documents including the mortgage deed was executed in favour of the bank. It is also not disputed that according to the bank the loan amount was in the shape of a cheque in favour of M/s Farmer Tractor House, Tarn Taran. The point of divergence has arisen when the loanees have

taken the stand that they have not been supplied the tractor with the loan amount. No document has been placed on the file evidencing that any tractor has been delivered to the loanees by M/s Farmer Tractor House, Tarn Taran. Additional Registrar Cooperative Societies, Punjab, Chandigarh in its order dated 14.3.2002 has observed that advancement of loan of Rs. 30,000/- seems to be doubtful as the respondent-bank could not prove the delivery of the tractor to the loanees. It has been further observed that Managers or Field Officers are supposed to verify the proper utilisation of the loan amount and creation of assets against the loan advanced, but no such verification is available on the record of the bank. So, in these circumstances, mere entries in the bank record is not sufficient to fasten the liability of the loanees and consequently the award was set aside. The bank preferred revision petition u/s 69 of the Act, before Sh. A.K. Dubey, IAS, Financial Commissioner, Cooperation, Punjab, Chandigarh, but that revision petition was also dismissed. Learned Financial Commissioner has also held that the bank could not produce any receipt showing the delivery of the tractor to the loanees. So, consequently, the revision petition was also dismissed.

8. After carefully scrutinizing the above said orders dated 14.3.2002 and 1.10.2004, we are of the considered opinion that the petitioner has failed to prove the fact that tractor was purchased by the loanees with the loan amount. The bank could have produced the registration of the tractor in the name of the loanees. Mere paying the amount to M/s Farmer Tractor House, Tarn Taran, is not sufficient to held the loanees liable for the loan amount. No documentary evidence has been placed on file that loanees have been delivered the tractor through loan account. So we do not find any illegality or irregularity in the orders dated 14.3.2002 and 1.10.2004, referred to above.

9. So, in these circumstances, the petition is without any merit and the same stands dismissed.

