
(2013) 09 P&H CK 0334
In the Punjab And Haryana At Chandigarh
Case No : C.R. Nos. 4678 and 4951 of 2011

The Punjab State Cooperative Bank Limited	APPELLANT
Vs	
Amarjit Singh and Others	RESPONDENT

Date of Decision : 25-09-2013

Acts Referred:

Citation : (2014) 173 PLR 635

Hon'ble Judges : Paramjit Singh Patwalia, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Paramjeet Singh, J.—Instant revision petition has been filed challenging the order dated 28.04.2011 passed by learned Additional District Judge, Panchkula whereby execution application filed by the petitioner-bank under Order 21 Rule 11 CPC read with Section 63 of the Punjab Cooperative Societies Act, 1961 (in short "the Act") has been returned to the concerned Registrar, being not maintainable. I have heard learned counsel for the petitioner and perused the record.

2. Learned counsel for the petitioner has contended that u/s 63(a) of the Act, the Civil Court has the jurisdiction to execute the certificate which had been signed by the Registrar or any person authorized by him as the same is considered to be a decree of civil court. The learned counsel has further contended that the necessary certificate u/s 63(a) of the Act was duly issued on behalf of the Registrar and the same was attached with the execution petition, therefore, the Award passed under the Act shall be deemed to be decree of a civil court and the same is liable to be executed in the same manner as decree of civil court. The learned counsel has further contended that Section 55 of the Act ousts the jurisdiction of the Civil Court to entertain any suit or pleadings in respect of disputes mentioned in clauses (a) and (c) of Sub-section (1) of Section 55 of the Act. However, learned counsel has further contended that the dispute between the parties has already been adjudicated by the Arbitrator and the Award so

passed is executable before the Civil Court in view of Section 63(a) of the Act.

None has appeared on behalf of the respondents.

3. I have considered the contentions of learned counsel for the petitioner and perused the record.

4. At the outset, it would be appropriate to deal with Section 55 of the Act which lays down that notwithstanding anything contained in any law for the time being in force, a dispute touching the business of a cooperative society arising between a member and the society shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceedings in respect of such a dispute. Section 56 of the Act lays down that the Registrar, on receipt of the reference of the dispute u/s 55 of the Act may either decide the dispute himself or transfer it for disposal to any person who has been invested with powers in that behalf or refer it for disposal to an arbitrator.

5. It would also be appropriate to reproduce Section 63 of the Act which reads as under:

Every decision, award or order duly passed under Sections 54, 56, 62, 68 and 69 shall, if not carried out-

(a) on a certificate signed by the Registrar, or any person authorised by him in this behalf be deemed to be a decree of a civil court and shall be executed in the same manner as decree of such court; or

(b) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf, by the attachment and sale or by sale without attachment of any property of the person or of the cooperative society against whom the order, decision of award has been obtained or passed; or

(c) be executed according to the law for the time being in force for the recovery of arrears of land revenue: Provided that an application for the recovery of any sum in the last aforesaid manner shall be made to the Collector and shall be accompanied by a certificate signed by the Registrar or any person authorized by him in this behalf.

6. From conjoint reading of Sections 55 and 63 of the Act, it transpires that once an Award is given either by the Registrar or by the Arbitrator, the same shall be deemed to be a decree of a Civil Court and shall be executed in the same manner as the decree of a civil court according to Section 63(a) of the Act. Thus, an Award or order duly passed under Sections 54 and 56 shall be executed as a decree of a civil court.

7. In Co-operative Society of Debts Vs. Nandlal, , the Hon"ble Supreme Court while dealing with the issue of jurisdiction of Registrar under the Act in respect to execution of decree observed as under: ----- . Under the Code a Civil Court passing a decree is also the Court executing the decree. It has a dual capacity. (1) of the Court passing the decree and (2) of the executing Court. The Registrar,

it appears, has the first capacity of a civil court but he has not been placed in the matter of execution in the same capacity as a civil court passing a decree. The only jurisdiction conferred on the Registrar is that he can issue a certificate and on that certificate he can send a decree either to the civil court or to a revenue officer. It may be that after issuing a certificate he may be entitled to cancel the certificate or issue another, or he may be withdrawing the certificate withdraw execution from a civil court and send it to a revenue Court and vice-versa. On the plain words of the section, it cannot be held that the Registrar has been constituted an executing Court or that any powers in the matter of the execution of the award decree have been conferred upon him.

The Full Bench of this Court in *Ran Singh v. Gandhar Agricultural Cooperative Service Society, Gandhar*, 1984 R.R.R. 415 has observed as under:

6. It is needless to point out that Civil Courts view with strong disfavour a tendency to oust their jurisdiction to entertain civil disputes. At the same time, if there are clear indications in an act of the Legislature, which either expressly or impliedly bar the jurisdiction of a Civil Court, such a Court will decline to overstep the limits set by law. Again, the jurisdiction of a Civil Court may be excluded for the purpose of the initial determination of the dispute but the same may be kept intact for the purpose of execution. Section 63 of the Act provides that every decision or award duly passed under Sections 54, 56, 62, 68 or 69 shall, if not carried out on a certificate signed by the Registrar, be deemed to be a decree of a Civil Court and shall be executed in the same manner. When the bar of jurisdiction of the Civil Courts created by Section 82 of the Act is seen in the light of this provision, it becomes obvious that the jurisdiction regarding the initial determination of the liability has been vested in the Registrar or the arbitrator, but the subsequent matter regarding recovery and enforcement of the award, which is equally important by the process of execution has been specifically left within the jurisdiction of a Civil Court.

In view of above legal position, both these revision petitions are allowed, the impugned orders dated 28.04.2011 passed by learned Additional District Judge, Panchkula are set aside and the Executing Court is directed to proceed with the execution of the decree.

In the circumstances of this case, this Court makes no order as to costs of the proceedings throughout.