

Court No. - 2

Case :- WRIT - C No. - 5634 of 2024

Petitioner :- Vibhaker Kushwaha

Respondent :- Commissioner And Registrar Cooperative U.P. Lko. And Others

Counsel for Petitioner :- Maneesh Pandey,Pawan Kishor Mishra,Rishabh Tripathi

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Maneesh Pandey, learned counsel for the petitioner as well as Standing counsel for respondent No.s 1 to 4.

2. It has been submitted by learned counsel for the petitioner that the petitioner is a member of respondent No.5-a cooperative society run under U.P. Cooperative Societies Act, 1965 and is a formal employee of the bank. He had taken a loan of Rs.5 lakhs from the said society in 2011 for construction of house and an agreement was also entered into between the petitioner and respondent No.5 with regard to repayment of the said loan. It has been further submitted that certain amounts were paid towards the outstanding amount of loan but admittedly the entire amount was not repaid by him and hence proceedings for recovery were undertaken and demand letter was issued by respondent No.5 on 15.6.2020 requiring him to pay the outstanding amount of Rs.6,80,270/- along with interest in June, 2020. The petitioner has disputed the outstanding amount as per the demand made by respondent No.5 and has written several representations including the representation to Secretary of respondent No.5 and also prayed that the matter be resolved through the process of arbitration as provided under Section 70 of U.P. Cooperative Societies Act, 1965.

3. It is noticed that any application under Section 70 has to be made to the Registrar but no such application was made by him and, hence, the matter was not referred for arbitration though the petitioner was under bonafide belief that he has done all possible to have the matter resolved through arbitration process. It is only when the present demand has been made for Rs.7,02,070/- along with interest that the petitioner has approached this Court.

4. There is no dispute with regard to the fact that appropriate application for appointment of Arbitrator under Section 70 has

not been made by the petitioner and accordingly the amount of interest has accrued and the total amount due is more than Rs.7 lakhs. In the aforesaid circumstances and with the consent of learned counsel for respondent No.5, the matter is being directed to be resolved through process of arbitration as per the provisions of Section 70 of the Act of 1965. The petition is accordingly **disposed of** with following direction:-

(i) The petitioner shall deposit an amount of Rs.3 lakhs with respondent No.5 within next three weeks.

(ii) He shall submit an application under Section 70 to the Registrar-respondent No.2 along with the said receipt immediately thereafter within a maximum period of ten days.

5. On the application for appointment of an arbitrator, respondent No.2 shall appoint an arbitrator within ten days thereafter and dispute shall be referred to the arbitrator who shall decide the same in accordance with law.

6. It is provided that the amount deposited by the petitioner as per the directions of this Court shall be subject to the outcome of the arbitration process.

7. On deposit of the aforesaid amount, as directed by this Court, the recovery proceedings against the petitioner as per the impugned order shall be kept in abeyance till appropriate orders are passed by the arbitrator.

(Arun Kumar Singh Deshwal, J.) (Alok Mathur, J.)

Order Date :- 27.6.2024
RKM.