

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 1494 of 2015 (O&M)
Date of decision: 9.7.2015

The Radhana Primary Agricultural Credit Society Ltd.
.. Petitioner

v.

Chander Bhan and another
.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Pardeep Solath, Advocate for the petitioner.

...

Rajesh Bindal J.

Challenge in the present petition is to the order dated 6.2.2015, passed by the learned Executing Court, whereby in execution, warrants of attachment were issued.

Respondent No. 1 herein filed execution of the decree passed in his favour on 4.8.2011 granting him benefits of pay w.e.f. 1.1.1996, in terms of what was granted to other employees of the Society. In the case in hand, the trial court dismissed the suit filed by respondent No. 1 on 28.5.2010. However, the judgment and decree of the trial court were reversed by the lower appellate court on 4.8.2011. Appeal preferred before this court bearing RSA No. 4342 of 2011 was dismissed on 29.8.2012 finding that no substantial question of law was involved. The order passed by this Court was challenged by the petitioner before Hon'ble the Supreme Court by filing Petition for Special Leave to Appeal (C) No. 16788/2014, which was dismissed being belated. Meaning thereby the judgment and decree of the lower appellate court in favour of respondent No. 1 attained finality, as the petitioner failed upto Hon'ble the Supreme Court.

The issue sought to be raised to challenge the order passed by the Executing Court is that the petitioner-Society did not have the jurisdiction to grant the benefit of pay scales to its employees, as the jurisdiction vested with the Registrar, Cooperative Societies. As in the case in hand, the Society had granted the benefit, the issue could not have been gone into by the Executing Court.

After hearing learned counsel for the petitioner, I do not find any merit in the submissions made. The issue was considered by the lower appellate court and this court and it was found that respondent No. 1-plaintiff was entitled to the relief claimed by him in the suit. Special Leave Petition filed before Hon'ble the Supreme Court was dismissed on account of delay. The case set up is not that the civil court did not have the jurisdiction to entertain the suit on account of there being a bar in the statute applicable. The argument sought to be raised on the merits of the controversy has already been gone into by the courts, which cannot be permitted to be raised in the execution proceedings.

For the reasons mentioned above, the petition is dismissed.

(Rajesh Bindal)
Judge

9.7.2015
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