

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA No.1586 of 1988 (O&M)

Date of decision: 15.7.2015

Hisham Singh

..... Appellant

Versus

The Baragaon Cooperative Credit and Service Society Limited and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. C.B.Goel, Advocate, for the appellant.

RAJESH BINDAL, J

The plaintiff having failed in both the courts below, has filed the present appeal against the judgments and decrees, whereby the suit filed by him against the Co-operative Society was dismissed on the ground that prior to filing thereof, no statutory notice was issued.

The facts as are available on record are that the appellant/plaintiff filed a suit challenging the award dated 24.4.1979 passed by the Assistant Registrar (Cooperative Societies), Karnal and the appellate order dated 23.2.1982 passed by the Joint Secretary (Cooperation Appeals) Government of Haryana. The appellant was working as a salesman with respondent No.1/society. The award was passed against him on account of embezzlement made by the appellant. In the written statement, preliminary objection was taken by the society that suit was not maintainable, as no notice was issued under Section 79 of the Punjab Cooperative Societies Act, 1961 (for short "the Act"). Issues No.3 and 4 regarding maintainability of the suit in the absence of notice under Section 79 of the Act were treated as preliminary and both the courts below found that in the absence of the notice, suit was not maintainable. The view expressed by the courts below cannot be said to be erroneous. The opinion of the courts below that the suit against the cooperative society is not maintainable in the absence of notice under Section 79 of the Act, for the purpose, is in consistence with the

judgment of this Court. Reference can be made to the judgment of this Court in RSA No.707 of 1995 titled as S. Mulakhjit Singh v. Punjab State Cooperative Supply and Marketing Federation Ltd. and another, decided on 11.8.2009.

For the reasons mentioned above, I do not find any illegality in the judgments and decrees of the learned courts below. No substantial question of law arises.

The appeal is accordingly dismissed.

(RAJESH BINDAL)
JUDGE

15.7.2015

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