

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.1310 of 2014 (O&M)
Date of decision: 27.2.2015

Madan Lal

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. I.S. Saggu, Advocate for the petitioner.
Mr. V. Ramswaroop, Addl. A.G. Punjab.
Mr. R.K. Sharma, Advocate for respondent No.4.

Rajan Gupta, J. (oral)

Petitioner has sought a writ in the nature of certiorari for quashing auction proceedings dated 22.4.2014 (Annexure P-8) being illegal and arbitrary.

Learned counsel for the petitioner has assailed the auction proceedings. According to him, same are not in accordance with Rule 72 of Punjab Cooperative Societies Rules, 1963. He further submits that sole residential house of the petitioner cannot be put to auction in view of Section 60 (1) (ccc) of the Code of Civil Procedure.

Learned counsel appearing for respondent society has vehemently opposed the plea. According to him, petitioner embezzled an amount of Rs.22,74,205.50 P. while posted as Secretary of the Society.

Matter was referred to the Arbitrator who gave an award against the petitioner. Award was never challenged by the petitioner in appeal/revision. Auction proceedings are merely a consequence of recovery proceedings pursuant to award. He further submits that petitioner furnished an affidavit Annexure R4/2, stating therein that he was ready to transfer his house measuring 7.85 Marlas in village Udhowal, District Nawanshahar in favour of the society.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It is evident that award dated 9.12.2011 was passed against the petitioner after due opportunity of hearing. Petitioner was asked to deposit the embezzled amount of Rs.22,74,205.50 P. alongwith 10% interest per annum within one month. Petitioner never posed a challenge to the award. Thereafter, Recovery Officer issued notice under Rule 72 (3) of the 1963 Rules asking the petitioner to remit the amount due within 15 days, failing which landed property, as detailed in the notice, would be sold. Ultimately, auction proceedings were initiated and same were completed on 22.4.2013 (Annexure P-8).

I find no infirmity with the proceedings. The auction proceedings are merely a consequence of the award passed against the petitioner. Provisions of Code of Civil Procedure are not applicable as respondent society initiated execution proceedings under section 63 of Act read with Rule 72 of 1963 Rules. Thus, no interference in writ jurisdiction is called for. It appears that wife of the petitioner preferred a civil suit challenging the attachment and sale of the house in question.

Same was dismissed for non-prosecution on 17.7.2014. The petition is, thus, without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

27.2.2015
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