

CWP-516-2015

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

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Date of Decision: 21.09.2015

Ajmer Singh

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Munish Jolly, Advocate,
for the petitioner.

Mr. Suresh Singla, Addl. A. G. Punjab.

Mr. Ashwani Prashar, Advocate,
for respondent No.4.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to supply the entire record of loan transaction starting from the loan application to all the transactions made in the said account including the payments made by the petitioner as well as rate of interest.

Brief facts of the present case are to the effect that Gurnam Singh, father of the petitioner had applied for a loan of ₹2 lacs for

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construction of a house. The father of petitioner had paid a sum of ₹22,343/- on 28.05.1999 and ₹18,000/- on 14.12.1999. The father of petitioner expired on 12.06.2003. After the death of father of petitioner, respondent No.4 is claiming repayment of the loan from the petitioner. The petitioner time and again requested respondent No.4-Society to supply him the entire record pertaining to the loan transaction including payments made by his father along with the rate of interest. Even without issuing any notice, arbitration proceedings were initiated against the petitioner and the same are stated to have culminated into passing of award, but copy of award has not been supplied to the petitioner in spite of issuance of legal notice (Annexure P-1). The respondent-Cooperative Society replied to the said notice mentioning the date of legal notice dated 09.12.2014 with a suggestion to the petitioner to clear the debt.

In pursuance of notice of motion, respondent Nos.1 to 3 and respondent No.4 have filed separate replies with the averments that such a writ in the nature of mandamus is not maintainable and reference to various judgments has been made.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner contends that Gurnam Singh, father of the the petitioner had taken a loan of Rs.2 lacs for construction of house. After passing of award and filing of present writ petition, warrant of attachment of property of Gurnam Singh and warrant

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of arrest have been issued for non-compliance of the award which has been passed without associating either father of the petitioner or the petitioner, at any stage. The petitioner sought documents and copy of the award to prefer appeal etc. in accordance with law, but the same have not been supplied and, therefore, he has been deprived of his valuable right to file appeal etc. He further contends that loan of the cooperative is fully insured and after the death of father of the petitioner, the loan amount should have been automatically waived.

Per contra, learned State counsel and learned counsel for respondent No.4 vehemently contend that instant writ is not maintainable against a Society and no direction can be issued to the respondents for supplying the documents.

I have given my anxious and thoughtful consideration to the rival contentions of learned counsel for the parties.

Warrant of attachment of the property of Gurnam Singh and warrant of arrest are stated to have been issued for execution of the award, therefore, the personal liberty of the petitioner is to be effected. It is admitted fact that against the award, even if passed *ex parte*, the petitioner has a right to prefer appeal or revision under the provisions of the Punjab Cooperative Societies Act. The petitioner cannot challenge the same unless he is supplied the copies of all relevant documents including the award. It is also admitted fact that an amount of ₹2,00,000/- was disbursed to the father of the petitioner for construction

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of house and his father had paid more than ₹40,000/-. Be that as it may, the fact remains that the petitioner has a right to prefer appeal or revision etc. against the award under the provisions of the Punjab Cooperative Societies Act. The principle of natural justice has not been followed while passing the award. The copies of award and other documents have not been supplied to the petitioner, therefore, he cannot challenge the award and avail the remedies in accordance with law. Even the appeal is to be filed with reference to relevant documents which are being sought in the present petition. The minimum principles of natural justice are required to be followed. The execution of warrant of attachment, warrant of arrest and award will certainly effect the personal liberty of the petitioner and he will be virtually condemned unheard.

In these circumstances, respondent No.4 is directed to supply all the relevant documents mentioned in the petition except the the copy of award, subject to payment of the requisite fee by the petitioner in accordance with law. Respondent No.3 is directed to supply the copy of award to the petitioner, subject to payment of the requisite fee in accordance with law. Needful shall be done by respondent Nos.3 and 4 within 15 days from the date of receipt of certified copy of this order.

Disposed of.

21.09.2015
parveen kumar

(Paramjeet Singh)
Judge