

Sr. No.475

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15622-1999(O&M)

Date of Decision: 17.11.2016

The Birk Co-operative Agricultural Service Society Ltd.Petitioner

VS.

Special Secretary to Govt. of Punjab and othersRespondents

CORAM HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present:- Mr. Satinder Khanna, Advocate for the petitioner.
Mr. B.M.Vinayak, DAG, Punjab.
Mr. D.D.Sharma, Advocate for respondents.

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RAMESHWAR SINGH MALIK, J

Present writ petition, at the hands of petitioner Co-operative Society, is directed against the revisional order dated 03.08.1999 (Annexure P3) passed by Special Secretary Cooperation (Appeals), Punjab, whereby the impugned Appellate order dated 08.05.1996 (Annexure P2) passed by the Deputy Registrar, Cooperative Society, Ludhiana, was upheld, thereby permitting the loanee respondents no.5 to 7, to deposit the principal amount along with interest, within the stipulated period.

Notice of motion was issued and in compliance thereto, written statement was filed on behalf of the official respondents no.1 to 3. Separate written statement was filed by respondent no.5 on behalf respondents no.5 to 7. Writ petition was admitted for regular hearing vide order dated 15.11.2000 passed by Division Bench of this Court. That is how this Court is seized of the matter.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the instant case, a bare combined reading of impugned orders (Annexure P2) and (Annexure P3) would show that both the respondent-authorities have proceeded strictly in accordance with law, while passing the respective impugned orders. In fact, order dated 08.05.1996 (Annexure P2) was passed by Deputy Registrar, Co-operative Society, Ludhiana, which was, as a matter of fact, an agreed order.

Operative part of impugned order dated 08.05.1996 (Annexure P2), reads as under:-

“ The learned counsel said that the appellant is willing to pay Rs.68757/- to the society and he will pay the sum on 30.06.1996. At this stage, the Secretary of the society said that upto 30.06.1996, the amount of Rs.86175/- will be payable. If the appellant pay this amount upto 30.06.1996, then the society will have no objection if the land is discharged from the mortgage / pledge.

After hearing both the sides and after the agreement of both parties, I order that the appellant should pay a sum of Rs.86175/- to the society before 30.06.1996. If appellant pays this amount then the society will release his land. Decision was announced in the presence of the parties who were present.”

Petitioner Co-operative Society filed its revision petition against the above said order, which was dismissed by the revisional authority vide order dated 03.08.1999 (Annexure P3). It was rightly observed by the revisional authority that since the loanee had deposited the amount in compliance of the above said Appellate order (Annexure P2) which had been accepted by the petitioner society, the revision filed by the petitioner society before respondent no.1 was unnecessary litigation. In this view of the matter, the revision petition filed by the petitioner Co-operative Society was rightly dismissed *in limine*.

During the course of hearing, when confronted with the above said undisputed fact situation obtaining on record of the present case, learned counsel for the petitioner had no answer and rightly so, it being a matter of record. Once the petitioner Co-operative Society had accepted the amount from the loanee – private respondents, by way of receipt dated 06.07.1996 (Annexure R1), available at page 37 of the paper book, petitioner was left with no other claim and it was bound to comply with the direction issued to it by the impugned Appellate order dated 08.05.1996 (Annexure P2), discharging the land of the loanee from its mortgage/pledge.

This fact whether the land has been discharged from the mortgage by the petitioner Co-operative Society or not, is not known to the counsel for the petitioner, because the petitioner Society has failed to pass on appropriate instructions to him in this regard, despite letters written by him including the one dated 07.10.2016.

Since none of the impugned orders have been found suffering from any patent illegality or perversity, the same deserve to be upheld.

learned counsel for the petitioner, which might have been caused to the petitioner by passing the impugned orders, warranting interference at the hands of this Court, while exercising its writ jurisdiction under Article 226 and 227 of the Constitution of India.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that that the instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Consequently, in case the petitioner Society has not discharged the land of the loanee - private respondents no.5 to 7, the same shall be discharged from mortgage / pledge forthwith and in any case within a period of one month from the date of receipt of certified copy of this order.

With the above-said observations made and directions issued, present writ petition stands dismissed, however, with no order as to costs.

November 17, 2016
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No