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

Civil Writ Petition No. 12979 of 2014
Date of Decision: 8.11.2016

Som Nath and others

.....Petitioner

Vs.

Registrar Cooperative Societies, Punjab and others
.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present :Mr. Pankaj Jain, Advocate
for the petitioner.

Mr. Yatinder Sharma, Additional A.G. Punjab.

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RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the order dated 23.12.2013 (Annexure P-12), passed by the Registrar, Cooperative Societies, Punjab, whereby he declined distribution of the amount of ₹2.71 crores, received by the Cooperative Society-petitioner No.16, from the Ministry of Railway, Government of India, on account of acquisition of land measuring 15 bigha and 1 biswa, amongst members of the Cooperative Society, who are petitioners No. 1 to 15 herein.

Notice of motion was issued and in compliance thereof, reply was filed on behalf of respondents No. 1 to 3. Thereafter, writ petition was admitted for regular hearing, vide order dated 23.1.2015.

Heard learned counsel for the parties.

It has gone undisputed before this Court that land measuring 159 bigha was allotted to the Society-petitioner No. 16, under the Nazool Land

(Transfer) Rules, 1956, by the competent authority of the State of Punjab. Pursuant to the allotment of land, ownership as well as possession thereof was transferred in favour of the Society. The Society became absolute owner of the land measuring 159 bigha. However, Ministry of Railway, Government of India, acquired the land measuring 15 bigha 1 biswa owned by the Society. An amount of ₹2.71 crores was received by the petitioner-Society, as compensation from the Ministry of Railway, Government of India.

It has also gone undisputed before this Court that remaining land which is 144 bigha is still in the ownership of the petitioner-Society. It is neither pleaded nor argued case on behalf of the petitioner that total land, which was allotted as nazool land by the competent authority stands acquired by the Ministry of Railway. As noticed hereinabove, only 15 bigha 1 biswa land was acquired and the remaining land measuring 144 bigha is still with the petitioner-Society.

Instead of investing the amount of compensation, received from the Ministry of Railways, on the remaining land, i.e 144 bigha, members of petitioner-Society, who are petitioners No. 1 to 15 herein, sought to distribute the said amount of compensation of ₹2.71 crores amongst themselves, by way of resolution dated 30.7.2012 (Annexure P-5). The Deputy Registrar, Cooperative Societies, vide communication dated 7.3.2013 (Annexure R-1), attached with the written statement, wrote to the Registrar Cooperative Societies, Punjab, to restrain the distribution of the amount of compensation amongst members of the Society. Thereafter, the impugned order came to be passed by the Registrar Cooperative Societies, Punjab.

A bare reading of the impugned order would show that the Registrar, Cooperative Societies, has recorded his cogent findings, before passing the impugned order which have been found based on sound reasons. The relevant operative part of the impugned order (Annexure P-12), passed by the Registrar Cooperative Societies, Punjab, which deserves to be noticed here, reads as under:-

> "*In view of the above, the matter is decided as under:-*
>
> *The relevant legal provisions relating this case are as follows:-*
>
> *Rule 7 of Nazool Land (Transfer) Rules, 1956 provides:-*
>
> *"No Cooperative Society or the individual member of Schedules Castes, as the case may be, shall alienate or sell or mortgage the Nazool Land and such land shall go down only in inheritance".*
>
> *Further, Section 41 of Punjab Cooperative Societies Act, 1961, provides as under:-*
>
> ***41. Funds not be divided by way of profit: -** No part of the funds of a co-operative society shall be divided by way of bonus or dividend or otherwise among its members;*
>
> *Provided that after least one-tenth of the net profits in any year have been carried to the reserve funds, payments from the remainder of such profits and from any profits of past years available for distribution may be made among the members to such extent and under such conditions as may be prescribed by the rules or bye-laws;"*
>
> *Rule 35 (1) of the Punjab Cooperative Societies Rules 1963 states as under:-*
>
> *"In no cooperative society the dividend shall*

exceed 20 per cent per annum on paid up share capital"

B (I) The bye-laws No. 32, 33, 34 and 37 of the bye-laws of the society do provide for the methodology for the usage of the funds of the society. As per these bye-laws the funds are to be used for the purpose of the common good of the society. Even the profits are to be distributed only to the extent of 10% amongst the members. However, the compensation amount received from the Ministry of Railway, Govt. of India by the Chandu Majra SCLO is not profit of the society. Hence there is no question of distribution the same even within the limits prescribed by the Rules/bye-laws

As per facts of the case the society was allotted 159 wighe Nazool Land under Rule 3 (b) of the Nazool Lands (Transfer) Rules 1956 and the ownership of the vests with the society and not with individual members. This compensation has been paid to the society in lieu of acquisition of 15 bighe and 1 bisva of society's land. As the ownership of the land vests with the society, the compensation received by the society also belongs to it and keeping in view the intent of Nazool Rules it has to be kept by the society and not distributed to the members. If this compensation received in lieu of the acquired land of the society is distributed amongst the members this would defeat the purpose of the rule 7 of the Nazool Rules which envisages that the property should not be frittered away by any member/individual at any time but should go down by inheritance. Distribution of these funds at this stage would amount to depriving the future generations from the benefit envisaged under the Nazool Rules.

Hence, keeping in view the Nazool Land (Transfer) Rules 1956, the provisions of the Punjab Cooperative Societies Act, 1961 and the Rules of 1963 made

> *thereunder the bye-laws of the society, the amount of 2.71 crore rupees received by the society from the Ministry of Railway, Govt. of India cannot be distributed amongst its members. However, members of the society in its General Body Meeting are free to take a decision, as per the bye-laws of the society, on how best this money could be utilized for the collective and enduring benefit of the society."*

While passing the abovesaid impugned order, the Registrar Cooperative Societies, Punjab, referred to Section 41 of the Cooperative Societies Act, 1961, which prohibits distribution of the profit amongst the members of Society. Even if the compensation received by the members of the Society may not come within the ambit of word "profit", yet the distribution of the amount of compensation amongst the members of the Society, would certainly run counter to the true spirit of the cooperative movement and will defeat the object of the Cooperative Society. Had the total property owned by the Cooperative Society been acquired, the matter would have been different. However, in the present case, as noticed hereinabove, land measuring 15 bigha 1 biswa, out of total 159 bigha, was acquired by the Department of Railway and the remaining land measuring 144 bigha, is still in the cultivating possession of the petitioner-Society.

It seems that after receiving the abovesaid amount on account of compensation for the acquired land, members of the petitioner-Society became greedy and thought it appropriate to distribute the said amount amongst themselves, to the detriment of the cooperative society. It is not permissible in law. Petitioners ought to have looked for some better ways and means, to utilise the amount received by the society, on account of compensation for the acquired land, from the Ministry of Railway. This

Court need not to suggest what would be the better ways and means to utilise the amount. It is for the petitioners to delve deep into the said aspect of the matter and ensure that the amount of ₹2.71 crores, received by the petitioner-Society on account of compensation, is utilised for the betterment of the Cooperative-Society to achieve its object, which would be ultimately in the interest of petitioners, as well.

During the course of hearing, learned counsel for the petitioners could not point out any patent illegality or perversity in the impugned order. Further, no prejudice of any kind, whatsoever, has been pointed out which might have been caused to the petitioners by passing of the impugned order, warranting interference at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 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 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.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

8.11.2016
Ak Sharma

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