

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CWP No.3500 of 2016
Date of Decision : 11.8.2016

The Karandi Multipurpose Cooperative Agriculture Service
Society Ltd.Petitioner

Vs.

The Special Secretary to Government of Punjab, Deptt.
of Cooperation and othersRespondents

CWP No.3503 of 2016

The Karandi Multipurpose Cooperative Agriculture Service
Society Ltd.Petitioner

Vs.

The Special Secretary to Government of Punjab, Deptt.
of Cooperation and othersRespondents

CWP No.3710 of 2016

The Karandi Multipurpose Cooperative Agriculture Service
Society Ltd.Petitioner

Vs.

The Special Secretary to Government of Punjab, Deptt.
of Cooperation and othersRespondents

...

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

...

Present : Mr. Vishal Sharma, Advocate for the petitioner.

...

RAMESHWAR SINGH MALIK, J

These three identical writ petitions bearing CWP Nos.3500,
3503 and 3710 of 2016 are being decided together, vide this common order,

as all the three petitions are arising out of similar facts and circumstances between the same parties. Identical orders passed by the respondent authorities are under challenge in all these three writ petitions. However, for the facility of reference, facts are being culled out from CWP No.3500 of 2016.

The only argument raised by learned counsel for the petitioner is that since respondent no.4 did not challenge the arbitration award dated 3.11.2009 (Annexure P-2) well in time, it became final. He further submits that the Assistant Registrar, Cooperative Societies, Sardulgarh, rightly dismissed the appeal of respondent no.4 only on account of delay, as the same was hopelessly time barred. He concluded by submitting that in such a situation, Joint Registrar, Cooperative Societies, Ferozepur Division, as well as the Special Secretary, Cooperation Department, Punjab, fell in serious error of law, while passing the impugned orders Annexures P-4 and P-5. He prays for setting aside the impugned orders, by allowing these three writ petitions.

Having heard learned counsel for the petitioner and giving thoughtful consideration to the contentions raised, this court is of the considered opinion that since the Special Secretary, Cooperation Department, Punjab, has upheld the remand order passed by Joint Registrar, Cooperative Societies, Ferozepur Division, Ferozepur, in all the three cases and the impugned orders have not been found suffering from any patent illegality or perversity, the same deserve to be upheld. All the three writ petitions having been found without any merit, are liable to be dismissed, for the following more than one reasons.

The Joint Registrar, Cooperative Societies-respondent no.2

remanded all the three matters to the arbitrator formulating specific issues for reconsideration of the arbitrator. Relevant operative part of the order dated 6.2.2013 (Annexure P-4), reads as under :-

“ By considering the arguments advanced by counsel for the petitioner, I have concluded that in the present case the lower courts have over looked many angles of the case such as :-

1. Was it a fit case for settlement under the scheme ?
2. Was the amount deposited by settlement of the loan under the settlement scheme by giving relief and was the settlement scheme in operation ?
3. Was this case passed by the Audit Department or the Department by the committee formed to pass these cases under the scheme ?
4. Whether after depositing of the amounts the auditor had certified or not about the correctness or otherwise of the case during the audit by the auditor ?

On the basis of above points, I Raj Kumar Gautam, PCS-I, Joint Registrar, Cooperative Societies Ferozepur Division, Ferozepur by setting aside the order dated 9.4.2012 and the order of the arbitrator dated 3.11.09 remand the case to Smt. Manjit Kaur, Inspector, Labour and Constructions Societies Mansa and direct her that after considering all angles of case on above points, complete the hearing of this case within two months. The judgement which was reserved on 10.1.2013 is written

today on 6.2.2013. A copy of the judgement may be sent through Deputy Registrar CS Mansa to Smt. Manjit Kaur, Inspector, Labour and Construction Societies Mansa for rehearing the case.”

Feeling aggrieved against the above said order passed by respondent no.2 in all these three cases, petitioner-society challenged the same by way of three identical revision petitions before the Special Secretary, Cooperation, Punjab, who dismissed all the three revision petitions by one common order dated 18.8.2015 (Annexure P-5). Relevant operative part of the impugned order passed by Special Secretary, Cooperation Department, Punjab, also deserves to be noticed here and the same reads as under :-

“ I have heard the arguments adduced by the counsel for the parties and gone through the record available on the file. It is found that the society had raised arbitration case by impleading Parkash Chand as a respondent alongwith others. Parkash Chand had submitted an application for transfer of the reference from Darshan Singh, Inspector, who was appointed as an Arbitrator by levelling some allegations against him. However, his request was not accepted and ultimately Darshan Singh decided the reference against him. The Joint Registrar after going through the facts of the case found that some issues are to be decided which were not decided by the Arbitrator. The right forum to decide the debatable issues

is the Arbitrator. Therefore, I do not find any reason to differ with the findings of the Joint Registrar. Moreover, the society has no locus standi to challenge the order of the Joint Registrar as no order was passed against the society. Therefore, the revision petition is dismissed. The other two revision petitions i.e. Revision Petition No.37 of 2013 and 48 of 2013 in which similar issue was raised are also being dismissed with this order.”

Solitary argument raised by learned counsel for the petitioner regarding the award having become final, has been found wholly misplaced and the same cannot be accepted. It is a matter of record that dissatisfied with the award passed by the arbitrator, aggrieved party, in all these three cases, challenged the said arbitration award before the Assistant Registrar, Cooperative Societies, Sardulgarh, by way of appeals. However, the appeals came to be dismissed solely on the ground of delay without discussing the merits of the case. Aggrieved party-respondent no.4 herein, challenged the said orders passed by Assistant Registrar, Cooperative Societies before the Joint Registrar, who rightly remanded the matters to the arbitrator, vide above said order. Having said that, this court feels no hesitation to conclude that the award passed by the arbitrator had not attained finality, as sought to be argued on behalf of the petitioner.

A bare reading of the above said impugned orders passed by the Joint Registrar as well as Special Secretary, Cooperation Department, Punjab, would show that neither they have exceeded their jurisdiction nor they have committed any error of law, while passing their respective

impugned orders. Since the arbitrator failed to properly examine, discuss and appreciate all the relevant issues involved between the parties, the cases were rightly remanded to the arbitrator for passing fresh arbitration awards after reconsideration of the matters. No illegality was committed by the Joint Registrar in remanding the cases with the above said directions and the impugned order passed by him deserves to be upheld.

Again, the matter was considered by the Special Secretary, Cooperation Department, Punjab and he also appreciated the issues involved in the correct perspective, while dismissing the revision petition filed by the petitioner-society. In this view of the matter, it can be safely concluded that the impugned orders have been passed as per true facts of the case and also in accordance with law, which deserve to be upheld for this reason also.

Further, during the course of hearing, learned counsel for the petitioner could not point out any prejudice, which might have been caused to the petitioner-society, while passing the impugned orders. Neither any of the impugned orders have been found against the true facts of the case nor have been found running contrary to the official record or any provisions of law. In fact, respondents no.1 and 2 have rightly made an endeavour to do complete and substantial justice between the parties.

It is the settled proposition of law that the courts of law, quasi judicial authorities as well as administrative authorities must make an endeavour to consider and decide the lis on merits, instead of ignoring some of the crucial issues under the garb of technicalities. Respondents no.1 and 2, in all the three cases in hand have rightly ignored the technicalities, if any, while passing the impugned orders and the same

deserve to be upheld for this reason, as well. Ordered accordingly.

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 since all these three writ petitions have been found wholly misconceived, bereft of merit and without any substance, thus, these must fail. No case for interference has been made out.

Resultantly, with the above said observations made, all these three writ petitions stand dismissed, however, with no order as to costs.

11.8.2016
GS

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No