

Sr. No.214

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-609-2015(O&M)

Date of Decision: 10.11.2016

Sushila Devi

....Petitioner

VS.

State of Haryana and others

....Respondents

CORAM HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present:- Ms. Tanya Malik, Advocate for the petitioners.
Mr. R.K.Doan, AAG, Haryana.
Mr. Pardeep Solath, Advocate for respondents no.6 and 7.

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RAMESHWAR SINGH MALIK, J

Present writ petition is directed against the order dated 17.12.2014 (Annexure P3) whereby attachment order was passed by respondent no.4.

Notice of motion was issued and in compliance thereof, written statement was filed on behalf of respondents no.2 and 3. Separate written statement was filed on behalf of respondent no.4. However, petitioner has not filed any replication.

Learned counsel for the respondents, at the very outset, submits that impugned order is appealable before Registrar, Cooperative Societies, Haryana. The stand taken by the official respondents no.2 and 3 in this regard, in para nos. 3 and 4 of their reply by way of affidavit dated 28.01.2016, reads as under:-

Section 3 of Haryana Cooperative Societies Act, 1984, respondent no.4 i.e Assistant Registrar, Cooperative Societies, Hisar has been delegated with the powers of the Registrar, within their territorial jurisdiction vide notification dated 10.11.1989 issued by the Govt. to deal with the various section of Haryana Cooperative Societies Act, 1984 which includes the Section 110 of the Haryana Cooperative Societies Act, 1984. It is further respectfully submitted that the respondent no.4 has passed the order dated 17.12.2014 (Annexure P-3) under the quasi judicial powers conferred upon him under the Haryana Cooperative Societies Act, 1984. The copy of the notification dated 10.11.1989 is attached herewith as annexure R-1/2.

4. That it is further respectfully submitted that since the order passed by the Assistant Registrar, Cooperative Societies, Hisar under Section 110 of the Haryana Cooperative Societies Act, 1984 are not appealable, so the petitioner have remedy to file the revision petition against the order dated 17.12.2014 (Annexure P-3) before the Govt. under Section 115 of the Haryana Cooperative Societies Act, 1984. However, the petitioner has not availed the remedy to file the revision petition under Section 115 of the Haryana Cooperative

Societies Act, 1984 before filing the present writ petition. So, in view of these submissions present writ petition deserves to be dismissed on this score alone.”

In view of the above said undisputed fact situation obtaining on the record of the present case, petitioner is relegated to her equally efficacious remedy of appeal before Registrar, Cooperative Societies, Haryana – respondent no.2.

However, it is made clear that if the petitioner will file an appropriate appeal against the impugned order before respondent no.2, within a period of one month from today, respondents shall not take the plea of limitation against the petitioner, because she had been pursuing her remedy before this Court under bonafide, however, wrong impression.

Further, keeping in view the peculiar facts and circumstances of the case, particularly the nature of impugned order, whereby property of the petitioner was attached and the operation of the impugned order was stayed by this Court, while issuing notice of motion on 14.01.2015, stay order shall continue to operate in favour of the petitioner, till the appropriate stay application moved by the petitioner along with her appeal, is considered and decided by respondent no.2 – appellate authority.

In view of the above said observations made and directions issued, present writ petition stands disposed off.

(RAMESHWAR SINGH MALIK)

JUDGE

November 10, 2016

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No