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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

RSA-1954-2010 (O&M)

Date of decision : 04.04.2016

Gurtej Singh and others

... Appellants

Versus

Harkishan and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Ms. Divya Godara, Advocate  
for the appellants.

Mr. Satbir Gill, Advocate  
for respondents No.1, 2, 4, 6, 7(i), 8 and 9.

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1. Whether reporters of 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?

**AMIT RAWAL, J. (ORAL)**

The appellants-defendants are aggrieved of the concurrent findings of fact whereby decree of injunction restraining the defendants from irrigating the bogus fields from the pipeline connected with the tube-well under the supervision and control of defendant No.8-Society to the effect that defendant Nos.2 to 7 are disqualified to remain as member of the Society and the mandatory injunction against the defendant(s) that till the formation of the executive society of defendant No.8 is reconstituted, be restrained from functioning and further defendant Nos.2 to 7 be enjoined not to interfere with the functioning held by the society-defendant No.8.

Ms. Divya Godara, learned counsel appearing on behalf of the

appellants-defendants submits that the suit as per the provisions of Section 128 of the Haryana Cooperative Societies Act, 1984 (hereinafter called 'the 1984 Act') was not maintainable and in support of her contentions, she relies upon the judgment of this Court rendered in **“Gurdeep Singh V/s Upkar Cooperative (Non-Agriculture) Thrift and Credit Society Ltd. and others”** **2012 (5) RCR (Civil) 523**. She further submits that the plaintiff had also approached the Registrar and therefore, the defendant could not have been declared owner and urges this Court to formulate the substantial questions of law as carved out in the memorandum of appeal.

Mr. Satbir Gill, learned counsel appearing on behalf of respondent Nos.1, 2, 4, 6, 7(i), 8 and 9 submits that the injunction passed is most innocuous and has been ordered to remain operative till the Assistant Registrar passes a speaking order after receiving the Enquiry report, thereafter, the parties have been left to avail the remedy in accordance with law and prays for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no merit in the appeal. It would be apt to reproduce the findings rendered by the lower Appellate Court which reads thus:-

*“This Court after hearing the counsel for the appellants and after thorough study of the case is also of the view that plaintiffs are entitled for a restrain order against the appellants till Assistant Registrar (defendant No.1) passes a speaking order after receiving the enquiry report as referred in letter dated 16.07.2001 (Mark-G). Once defendant No.1 has received a complaint by plaintiffs against the defendant Nos.2 to 8 and has marked the*

*same to his subordinate Inspector, it is expected from the defendant No.1 that he will not allow the irregularities to continue and will take the necessary remedial steps. Since plaintiffs have failed to get a proper response promptly from defendant No.1, they have approached the Civil Courts and it is now the duty of the Court to stop further deterioration of the situation. Hence, no fault can be found in the impugned judgment and decree passed by learned Trial Court against the appellants”.*

By this time, the Registrar must have passed a speaking order after receiving the enquiry report. Injunction was granted till then. In my view, the relief so sought by the plaintiff must have been rendered infructuous for the reason that remedy and measures to take the necessary steps after passing of the speaking order by the Registrar have been taken care of. None of the parties are acquainted of the outcome of the alleged speaking order required to be passed by the Registrar. More so, the provisions of Section 128 of the 1984 Act would apply only to measures which does not fall within its ambit. For the sake of brevity, Section 128 of the 1984 Act reads thus:-

***“128. Bar of jurisdiction of courts:-*** (1) *Save as provided in this Act, no civil court or revenue court, shall have any jurisdiction in respect of-*

*(a) The registration a co-operative society or its bye-laws or of an amendment of bye-laws;*

*(b) the removal of a committee;*

*(c) any dispute required under Section 102 to be referred to the arbitration of the Registrar or any matter in which proceedings under Section 104 have been initiated; or*

*(d) any matter concerning the winding up and dissolution of a co-operative society.*

*(2) While a co-operative society is being wound up, no suit or other legal proceedings relating to the business of such society shall be proceeded with or instituted against the liquidator as such or against the society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.*

*(3) Save as provided in this Act, no order, decision or award, made under this Act, shall be questioned in any court on any ground whatsoever”.*

Keeping in view the aforementioned facts and circumstances, I do not find any illegality and perversity in the impugned judgment and decree of both the Courts below, under challenge, accordingly, the appeal is dismissed.

**04.04.2016**  
yogesh

**( AMIT RAWAL )**  
**JUDGE**