

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

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RSA 4703 of 2013 (O&M)
Date of decision: 18.02.2016

Khadyal C.A.S.S. Ltd Khadyal and others*Appellants*

Versus

Chander Shekhar and others*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Tarunveer Vashisht, Advocate
for the appellants

Mr. Tribhuwan Singla, Advocate
for the respondents

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.(Oral)

The present appeal lays challenge to the consistent findings recorded by the Courts below whereby the suit filed by the respondents was decreed by the trial Court and the judgment and decree passed by the trial Court has been affirmed in appeal.

Counsel for the appellant contends that Shri Pawan Kumar-respondent No. 3 was an employee of the Khadyal C.A.S.S. Limited Khadyal Tehsil Sunam, District Sangrur (in short, 'the Society'). The plaintiffs/respondents No. 1 and 2 furnished a surety bond to indemnify the Society in case any loss is caused by Pawan Kumar to the Society during his

service. Pawan Kumar - Respondent No. 3 committed embezzlement of the funds of the society and as a consequence, three awards under the Punjab Cooperative Societies Act, 1961 were passed against him on 18.05.2007, 19.09.2007 and 04.07.2005 for a sum of Rs.36,630.00/-, Rs.19,870.00 and Rs.2,43,690.00 respectively. It is further argued that as the contesting respondents furnished a bond to indemnify the loss suffered by the Society at the hands of respondent No. 3, the suit property is liable to be attached and sold for recovery of the amount which respondent No. 3 has been held liable to pay to the Society.

Counsel for the respondents, on the contrary, has submitted that as the respondents were not a party to the proceedings which culminated in the awards against respondent No.3 nor any liability qua the respondents has been fixed in the awards, the Society cannot proceed against the land, admittedly owned by the respondents. It is further argued that as the respondents were not a party to the said proceedings, the Courts below have rightly held that jurisdiction of the civil Court, in the circumstances of the present case is not barred under Section 82 of the Punjab Cooperative Societies Act, 1961.

I have heard counsel for the parties, perused the records and find no merit in the appeal.

There is nothing on record suggestive of the fact that the respondents mortgaged the suit property in favour of the society or created any charge thereon, entitling the society to recover outstanding amount due from respondent No. 3. There is also no dispute that contesting respondents were not a party to the proceedings which culminated in the

awards passed against respondent No. 3 nor they have been held liable to pay the awarded amount either jointly or severally. As the appellant's society has not determined liability of the contesting respondents by taking recourse to appropriate proceedings, if any, in accordance with law, no error much less illegality can be found in the findings recorded by the Courts below when otherwise, no substantial question of law arises for adjudication.

For the foregoing reasons, the appeal is dismissed leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

18.02.2016
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