

\$~11

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 1117/2015, C.M. NO.1977/2015**

PANKAJ

..... Petitioner

Through : Sh. Kunwar Arish Ali, Advocate.

versus

**THE PRESIDENT/SECRETARY DELHI TAXI OPERATOR. CO
OPERATIVE T/C AND SERVICE SOCIETY LTD..... Respondent**

Through : None.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

%

20.01.2016

The petitioner is aggrieved by the order dated 17.12.2014; he contends that the Delhi Cooperative Tribunal [hereafter “the Tribunal”] failed to address the essential dispute that he was not liable to pay ₹2,50,000/- but rather the original loan amount that was sanctioned which was ₹1,25,000/-.

The brief facts are that the petitioner had applied and was granted loan by the Delhi Taxi Operator Cooperative T/C and Service Society Ltd. [hereafter “the Society”], i.e. the respondent. Four persons stood guarantee to the loan which was to the sum of ₹2,50,000/-. Complaining default, the Society obtained a reference under Section 70 of the Delhi Cooperative Societies Act, 2003 [hereafter “the 2003 Act”], which led to an Award that directed repayment of ₹2,99,321/- with interest @ 16+3% per annum with effect from 01.01.2005. The Award was dated 31.01.2005. The

petitioner, however, did not discharge his liabilities. The Registrar Cooperative Societies [hereafter “RCS”], on being approached caused a warrant to be issued for his arrest in 2010. Subsequently, he complained in the execution proceedings that the real amount of the original loan was ₹1,25,000/- and not ₹2,50,000/-. This plea was considered by the RCS; later he appealed to the Tribunal which, by the impugned order, dismissed his plea. It is contended that the petitioner was never made aware about the Award and became aware only subsequently when it was sought to be enforced. Learned counsel submits that the documents adduced in support of the Award were not appropriately appreciated and the liability should be restricted only to ₹1,25,000/-.

This Court is of the opinion that the petitioner’s contentions are meritless. It is not in dispute that in execution of the Award, the RCS had caused a warrant to be issued in 2010. Even if one assumed that the petitioner was unaware of his liabilities from 2005, there can be no dispute that he became aware of what was due in 2010 and could have made reasonable enquiries.

His belated approach seeking a review of the Award to the authorities and subsequently the Tribunal is a give-away.

Furthermore, this Court sees no substantive reason to interfere with the determination in the Award as to the liability because the petitioner has not disclosed what amounts were to be paid.

It goes without saying that the amounts deposited by the petitioner towards his liabilities shall be taken into account while calculating the balance of the amounts payable.

The writ petition is accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

JANUARY 20, 2016

ájk