

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

**CWP No.11754 of 2000
Date of Decision.07.03.2017**

Sukhwinder Singh

.....Petitioner

Vs

The Special Secretary Cooperation (Appeals) and othersRespondents

Present: Mr. M.S. Bedi, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The writ petition filed in the year 2000 was admitted in the year 2001 and is listed for service of the respondents. Service qua respondent Nos.1 and 2 is complete, however, qua respondent No.3 service is still incomplete.

Keeping in view the fact that the matter pertains to the year 2000 and the issue involved is recovery of alleged loan taken by the petitioner from the society, I do not deem it appropriate to wait for the presence of the opposite party in a case which is lingering on for adjudication from last about 16 years, therefore, I hasten to dispose of the case with the assistance of counsel for the petitioner and after perusing the record.

The contention of the petitioner is that in reference sought under Section 55 and 56 of the Punjab Cooperative Societies Act, the Arbitrator entered reference and issued notice for 01.09.1994 and 08.09.1994 whereas no effective opportunity was granted to ascertain whether the service of the arbitration proceedings was effected upon the

petitioner or not and has passed the sketchy Award which reads as under:-

“In the court of Amrik Singh, Arbitrator, Inspector Coop. Societies

The Bhagrana Coop. Agri. Service Society Ltd.1st Party

Vs.

Shri Sukhwinder Singh s/o Gurdev Singh, VPO Bhagrana, Tehsil Sirhind, Distt. Fategarh Sahib.

The Bhagrana Coop. Agri. Service Society Ltd., Bhagrana raised a dispute for the recovery of Rs.19,660/- as principal+Rs.1600/- as interest + Rs.250/- as costs, totalling Rs.21510/- against its member.

The Asstt. Registrar Coop. Societies, Sirhind exercising the powers of the Registrar, Coop. Societies, Punjab, Chandigarh under Section 56(c) of the Punjab Coop. Societies Act, 1961 appointed me as an Arbitrator for the disposal of above dispute.

The second party was informed to come present on 01.09.2014 at 10.00 AM at Baraas personally or through counsel in order to defend the case. The 2nd party did not come present on 8.9.1994 at Baraas at 10.00 AM. The Secretary of the society-1st Party come present with record and after hearing him, I reached at the conclusion that Shri Sukhwinder Singh s/o Shri Gurdev Singh, Principal Loanee should pay Rs.19660 as principal+Rs.1600/- as interest as on 30.6.1994 + Rs.250/- as costs, totalling Rs.21,510/- to the Coop. Agri. Service Society Ltd.-1st party. The 1st party is entitled to recover the interest @15 ½ annual from the 1st party till the recovery is made. If the 2nd party does not give the recovery of the loan in the ordinary course to the 1st party, then the 1st party is entitled to recover the amount from the movable and immovable property of the 1st party as arrears of land revenue or through the Civil Court.

This decision was written at Baraas and was announced in Open Court.

*Sd/- 8.9.1994
Amrik Singh
Arbitrator”*

The appeal preferred against the Award was dismissed as barred by limitation and the revision petition filed against the same also met with the same fate.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that the Arbitrator should not have followed the procedure as indicated above. It should have sent notice to Sukhwinder Singh and awaited for a period of at least 30 days to record the finding whether the petitioner was actually served or not and otherwise.

In my view, the order does not fall within the parameters of

Award and impugned orders are set aside and the matter is remitted back to the Society to initiate the arbitration proceedings afresh after affording opportunity to the petitioner and appointment of the Arbitrator shall be made as per statutory provisions, if so needed.

The writ petition is allowed in the above terms.

(AMIT RAWAL)
JUDGE

March 07, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No