

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

CWP No.222 of 2000

Date of Decision.16.03.2017

2. CWP No.1198 of 2000

Didar Singh and others

.....Petitioners

Vs

Special Secretary Co-operation, Appeals, Punjab and others

.....Respondents

Present: Mr. R.S. Aulakh, Advocate
for the petitioners.

Mr. Yatinder Sharma, Addl. A.G, Punjab.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The registry has listed the cases for bringing on record the legal representatives of respondent No.5. The counsel for the petitioners submits that the legal representatives of respondent No.5 are not available. The main contesting respondent is the 2nd respondent and therefore, name of 5th respondent may be deleted from the array of parties.

Ordered accordingly. The name of 5th respondent is ordered to be deleted from the array of parties.

With the consent of both the parties, the writ petitions are taken on record and heard.

The grievance of the petitioners in both the present writ petition is that they have not appropriately served in the proceedings initiated under Section 55 of the Punjab Cooperative Societies Act, in essence, the service as prescribed under Rule 74 of the Punjab Cooperative Societies Rules, 1963 has not been effected. In this regard, Mr. Aulakh has

reads as under, and as well as Rules:-

“Notice was issued to both the parties to come present for 7.4.1982 for the hearing of this case. Whereupon the Secretary of the society has reported that Balkar Singh son of Inder Singh is in jail and Gurdial Singh has left the village and has gone and Didar Singh is in the village but avoiding notice. Thereafter the notices have come back unserved. Therefore, the case was fixed for 28.4.1982 for hearing.

The Secretary of the society told that the service of these notices cannot be effected in the ordinary way. Therefore, the Secretary of the society and the area inspector has been directed that the service of this notice be effected through paper publication on 1.1.83. This notice was given in the paper 'The Nawan Zamana' and the date for hearing was fixed for 17.1.1983. Nobody appeared on behalf of the second party despite notice in the newspaper and the case was adjourned to 21.1.1983, 25.1.1983. On 1.2.1983 Secretary of the society and the Branch Manager of the Ferozepur Central Cooperative Bank Ltd., Branch Makhu came present.”

On reading of the Award and the Rules, I am, prima facie, of the view that there is no strict adherence to the aforementioned Rules, much less, the notice was never sent at the registered address, therefore, the authority did not record any satisfaction on refusal or avoiding of service. Even no evidence has been placed on record whether the publication in the newspaper 'Nawan Zamana' was in circulation of the village. One of the respondent-Balkar Singh was in jail. No effort was made to provide him the service of lawyer or anything else so that he could defend the recovery of loan amount. The appeal filed against the aforementioned order was held to be barred by law of limitation. All these factors, in my view, were required to be pondered upon objectively and pragmatically.

orders came to be passed in appeal and revision, as a consequence of the same, are not sustainable and hereby set aside. However, liberty is granted to the Society to initiate proceedings afresh or to restore ex parte proceedings. The petitioners shall put in appearance before the Arbitrator on 07.04.2017 and shall file the defence and the Arbitrator or anybody else on behalf of the Society shall conclude the proceedings as expeditiously as possible and preferably within a period of six months from the date of receipt of certified copy of this order.

The writ petitions are disposed of in the above terms.

(AMIT RAWAL)
JUDGE

March 16, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No