

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

CWP No.3008 of 2015
Date of decision : 09.03.2017

Kashmir Kaur and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. M.S. Kang, Advocate for the petitioners.

Mr. Inder Pal Goyat, Addl. A.G. Punjab.

Mr. Naveen Bawa, Advocate for respondent No.4.

AMIT RAWAL, J. (Oral)

The petitioners are the legal representatives of Nirmal Singh who was appointed as Secretary of the Society. As per the audit report of 2004, he was found to be in possession of unaccountable amount. Twice he was dismissed from service. Ultimately, the dismissal was set aside and he resume the job. Unfortunately, he died in 2008, however, the Society initiated proceedings in 2012.

Mr. M.S. Kang, learned counsel appearing on behalf of petitioners submits that proceedings under Section 55 of the Punjab Cooperative Societies Act cannot be initiated. As per Article 137 of the Limitation Act, it has to be done within a period of limitation as there is no provision in Punjab Cooperative Society Act excluding the applicability of

Limitation Act, in essence, provision of Section 29 of the Limitation Act would come into play.

He also further submitted that as per the provisions of Sub Section 4 of Section 6 of Hindu Succession Act, if the father dies, sons would not having any pious obligation to discharge. Thus, the award, appeal, revision petition and order passed thereon are liable to be set aside.

Per Contra, Mr. Naveen Bawa, learned counsel appearing on behalf of respondent(s) submits that there is no limitation for initiation of the arbitration proceedings.

I have heard learned counsel for the parties and appraised the paper book.

The Punjab Cooperative Societies Act does not exclude the applicability of Limitation, therefore in view of provision of Section 29(2), which reads thus:-

“29(2) where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only insofar as, and to the extent to which, they are not expressly excluded by such special or local law.”

provision of Limitation Act would apply.

There has been amendment in sub-Section 4 of Section 6 of the Act, whereby no court shall recognize any right to proceed against a son,

grandson or great grandson for the recovery of any debt due from his father, grandfather or great-grandfather solely on the ground of pious obligation under the Hindu Law, of such son, grandson or great-grandson to discharge any such debt. All these factors were required to be taken into consideration but having failed to do so, I am of the view that claim before the Arbitrator was ex facie barred by law of limitation.

All these factors have not been taken into consideration.

Resultantly, impugned awards/orders are quashed.

Accordingly, present writ petitions stands allowed.

09.03.2017

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No