

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

CR No.6003 of 2016

Date of Order: 30.01.2018

The Punjab State Co-op. Agricultural Development Bank Ltd,

....Petitioner

Versus

Harpreet Singh and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashwani Prashar, Advocate for the petitioner.

Mr. JPS Sidhu, Advocate for respondent No.1.

AMIT RAWAL, J (ORAL)

The petitioner-defendant is aggrieved of order dated 17.5.2016 passed by learned Civil Judge (Sr. Division), Mansa whereby application moved under Section 7 Rule 11 CPC for rejection of the plaint on the premise that as per Section 82 of the Punjab Cooperative Societies Act, 1961 (for short "1961 Act"), the jurisdiction of Civil Court is barred to try the present suit in respect of the matters pertaining to imposition of penalty, has been dismissed.

Learned counsel for the petitioner submitted that the impugned order suffers from irregularity and perversity. As per Appendix-III of the Common Cadre Rules, 1978 and the amended provisions of Section 82 of 1961 Act, the jurisdiction of the Civil Court is exclusively barred but for the reasons best known, aforesaid point has been totally ignored by the learned trial Court while rejecting the application.

On the other hand, learned counsel for the respondent

submitted that in a suit for declaration filed by the plaintiff-respondent No.1, not only the orders dated 25.5.2009, 03.9.2009 and 25.7.2014 were challenged whereby the Managing Director of Punjab State Cooperative Agricultural Development, Chandigarh stopped 5+5+1 increments of respondent No.1 with cumulative effect owing to alleged absence and other relief qua promotion and decision of statutory appeal within stipulated period, was sought. It is therefore, submitted that the present application has rightly been rejected.

I have heard learned counsel for the parties and perused the record. No doubt, vide notification dated 28.7.2014, Section 82 of 1961 Act was amended vide which an alternative remedy has been provided but the fact which arises is that the respondents-plaintiff had already availed the remedy and no decision has been taken. Therefore, the respondents-plaintiffs' counsel remained remediless.

Thus, I am of the view that the remedy for the petitioner-respondent No.1 was to move appropriate application either under Section 89 or under Order 12 Rule 6 CPC for issuance of appropriate directions in support of prayer seeking rejection of the plaint.

With the aforesaid observations, the present revision petition while upholding the impugned order, is disposed of.

January 30, 2018
manoj

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No