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

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CWP No.29855 of 2017
Date of Decision: 17.01.2018

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The Ropar Central Cooperative Bank Ltd.
. . . . Petitioner

Vs.

The Permanent Lok Adalat (PUS), Rupnagar and another
. . . .Respondents

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CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

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Present: Mr.Naginder Singh Vashist, Advocate,
for the petitioner.

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RAKESH KUMAR JAIN, J.

The petitioner has challenged the award passed by the Permanent Lok Adalat (Public Utility Services), Rupnagar [for short 'the PLA'] dated 14.11.2017.

In brief, respondent No.2 filed an application under Section 22C of the Legal Services Authorities Act, 1987 [for short 'the Act'] alleging that he was engaged as an Advocate by the Gram Panchayat, Ghanauli in a case and was paid his remuneration by way of cheque of an amount of ₹12,000/- on 26.5.2017. Respondent No.2 had allegedly present the cheque through Rajiv Sharma, Advocate to the Bank for payment, which was refused on the ground that respondent No.2 himself should have collected the payment. It is alleged that on 5.8.2017, respondent No.2 along with Rajiv Sharma, Advocate, visited the petitioner/bank at about 11:30 AM and requested the Manager of the petitioner/bank to make the payment after presenting original cheque along with the resolution of the Gram Panchayat but the payment was refused. Respondent No.2 then filed the application before the PLA for direction to the petitioner/bank to make the payment and also for compensation towards harassment, mental agony and litigation expenses. The petitioner did not deny that Rajiv Sharma, Advocate had presented the cheque for releasing the payment but their consistent stand is that respondent No.2 did not come present. The PLA has rightly observed that in the statement given by K.S. Rana, Manager of the petitioner-Bank, he has only referred to the earlier visit of Rajiv Sharma, Advocate but did not deny the visit of respondent No.2 on 5.8.2017. The silence in this regard on his part in the affidavit tendered by him as Annexure R-1 has been taken into consideration against the petitioner and also the fact that the petitioner failed to produce CCTV footage of 5.8.2017 despite the fact that the petitioner/bank has the CCTV cameras.

Learned counsel for the petitioner has submitted that the cheque was not encashed because necessary verification was required as the cheque was issued by the Public Body.

I have heard learned counsel for the petitioner and after examining the available record, am of the considered opinion that there is no force in the submissions made by counsel for the petitioner in view of the findings recorded by the PLA, which are reproduced as under: -

"It is also argued by the respondents that unless the identity of the person presenting the cheque was proved as Dahram Pal, the respondents were not liable to pay the amount, in this respect, the applicant has argued that he was identified by Rajiv Sharma, Advocate, whose wife had an account with the respondents and therefore, there was no dispute about his identity. Otherwise also, the respondents could on 21.8.2017 had requested this adalat to ascertain the identity of Dharam Pal but they did not choose that course. Further, when dissatisfied with the treatment meted out to him by the respondents the applicant had approached this Adalat and a notice had been issued to them, there remained no doubt about the identity of the applicant. It is therefore, clear that there was no doubt about the identity of the applicant presenting the cheque because the identity of the applicant presenting the cheque because the identity of Dharam Pal as an Advocate could be proved/ascertained without any difficulty.

When the respondents refused to make the payment of the cheque, the applicant on 7.8.2017 filed the present application in which a notice was issued to the respondents for 21.8.2017. The endorsement Ex.C1 and Ex.C2 on the notices show that the same were served on both the respondents on 10.08.2017. Instead of making the payment against the cheque, they engaged a lawyer who appeared before this Adalat on 21.8.2017 to contest the present application. They made no such reference on 21.08.2017 if they were ready to make the payment against the said cheque. It may be mentioned again that the cheque was issued on 26.05.2017 and was valid up to 25.08.2017. Still there were four days left for the respondents to make the payment against the said cheque, but instead of making the payment, they chose to oppose the application for which purpose they had engaged an Advocate. Ordinarily in such a case, if the Bank had no malafide intention against the applicant, it would have contacted the applicant immediately after *service of summons on 10.08.2017 or at the most should have come present on the date fixed i.e. 21.8.2017 and represented that they were ready to make the payment of the cheque. The conduct of the respondents in opposing the application shows that they were not willing to honour a valid cheque.*

The learned counsel for the respondents has vehemently argued that the present dispute is to be settled by the Registrar, Cooperative Societies through Arbitration in view of Section 55 of the Cooperative Societies Act. When we go through the said provision, we find that it would be applicable only if the dispute is, firstly, between the members or past members etc. of the Cooperative Society and secondly, relating to the constitution, Management the business of the Society. None of these ingredients is satisfied in the present case. The dispute is between the Co-operative Bank and the applicant in whose favour its Account holder has issued a cheque issued towards fee in favour of the applicant who is not a member of the Society. It is a banking transaction between

> *the applicant and the respondent Bank. The argument of the Ld. Counsel for the respondents is therefore, devoid of merits.*

Thus, in view of the aforesaid facts, I do not find any merit in the present petition and hence the same is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

17.01.2018
Vivek

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*