

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.3507 of 2017 (O&M)
Date of Decision : 30.08.2018

Amrit Kaur and another

..... Appellants

Versus

The Registrar, Co-operative Societies,
Punjab, Chandigarh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Rajinder Singh Aulakh, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing a suit filed by the appellants.

The appellants have filed a suit for declaration claiming that they were liable to pay only simple interest on a loan which they had obtained from the respondent-Co-operative Societies, Punjab.

In the written statement it was pleaded that the Civil Court had no jurisdiction. It is further pleaded that while taking the loan the appellants had executed a mortgage deed, as per which it was stipulated that though the rate of interest would be 15% per annum simple interest yet if there was default in payment the appellants would be liable to pay penal interest also. It was further pleaded that when the appellants did not pay the amount an Arbitrator was appointed who issued notice to the appellants and since they did not appear passed an award. Both the Courts having

Learned counsel has argued that both the Courts below have completely mis-read the Punjab Co-operative Societies Act, 1961 (for short 'the Act') and the Section on which reliance has been placed actually does not deal with the issue which the Courts have raised.

In my opinion, even if this is correct there is more formidable hurdle facing the appellants. Section 82 of the Act bars the jurisdiction of the Civil Court where an award has been passed under that Act.

Learned counsel has argued that in the present case the award was passed without issuing any notice to the appellants and once that is so the jurisdiction of the Civil Court can not be taken away. The point is whether the authorities under the Act could appreciate the ground being taken by the appellants or not. If there is a case where a particular Act does not give the jurisdiction to any authority to challenge a decision under the Act the jurisdiction of the Civil Court may be assumed but where an Act is a complete code and the ground which is taken by the appellants in the Civil Court is available to them under the Act and the authorities under the Act can give relief to them it would not be possible to over turn the bar of jurisdiction.

Appeal stands dismissed.

Since the main case has been decided, the pending Civil Miscellaneous Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

30.08.2018
Pooja sharma-I

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No