

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.805 of 2016

Arising out of

C.W.J.C. No. 4345 of 2015

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1. Raj Kumar Sharma @ Raj, S/o Late Basant Lal Das, Resident of Village - Ithari, P.S. Janaki Nagar Dist. Purnea, Chairman of Rupauli North Primary Agricultural Credit Co-operative Society Ltd. Banmankhi, Purnea.
 2. Dilip Yadav S/o Late Thakur Prasad Yadav, Resident of Village - Koshisharan Devottar, P.S. Banmankhi, Dist. Purnea, Chairman of Koshisharan Devottar Primary Agriculture Credit Co-operative Society Ltd. Banmankhi, Purnea.
 3. Surendra Kumar Suman Yadav, S/o Sri Sitaram Mandal, Resident of Village - Sonma, Balia, P.S. Bhavanipur, Dist. Purnea, Ex-Chariman of Sonma Primary Agriculture Credit Co-operative Society Ltd. Bhavanipur, Purnea.

... .. Appellant/s

Versus

1. The State of Bihar through its Chief Secretary,
2. The Principal Secretary, Department of Co-operative, Government of Bihar, New Secretariat, Patna.
3. Registrar, Co-operative Society Government of Bihar, Patna.
4. The District Co-operative Officer, Purnea.
5. The Managing Director, The Purnea District Central Co-operative Bank Ltd. Purnea.
6. The Branch Manager, the Purnea District Central Co-operative Bank Ltd., Banmankhi Branch, Purnea.
7. The Branch Manager, the Purnea District Control Cooperative Bank Ltd., Bhavanipur, Dist- Purnea
8. Bihar State Food and Civil Supplies Corporation Ltd. through its Managing Director, Sone Bhawan, Birchand Patel Marg, Patna
9. The Manager of Bihar State Food and Civil Supplies Corporation Ltd. Banmankhi, Purnea.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mrs.Mira Kumari, Advocate
For the State	:	Mr. Niraj Kumar, A.C. to G.P. 10
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate
For Cooperative Bank	:	Mr. Rakesh Kumar Jha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-01-2019

Heard Smt. Mira Kumari, learned counsel for the



appellants, Shri Niraj Kumar, Assistant Counsel to Government Pleader No. 10, Shri Shailendra Kumar Singh for the Bihar State Food & Civil Supplies Corporation Ltd. And Shri Rakesh Kumar Jha for the Cooperative Bank.

2. The learned Single Judge in a matter arising out of surcharge proceedings under Section 40 of the Bihar Co-operative Societies Act, 1935 (hereinafter referred to as “1935 Act”) has declined to entertain the petition on the ground of availability of the alternative remedy of appeal to the appellants in terms of Section 40 (3) of the 1935 Act.

3. Learned counsel for the appellants has urged that in the instant case the District Co-operative Officer has passed the impugned order dated 19th January, 2015 who, according to the appellants, is not the Registrar and, therefore, an appeal would not lie against such an order and the writ petition ought to have been entertained as the order was without jurisdiction.

4. Learned counsel for the respondents have invited attention of the Court to the notification dated 26th December, 2008, whereby the power to the District Co-operative Officer stands conferred in terms of Section 6(1) read with sub-section (2) thereof to exercise all such powers except in relation to Central Co-operative Banks.



5. Admittedly, the appellants are not a Central Co-operative Bank and, therefore, the District Co-operative Officer did have the jurisdiction to proceed in the matter and appeal, therefore, against such an order would be maintainable in view of the provisions of Section 40(3) of the 1935 Act. There is no error, much less a legal error, in the impugned order so as to warrant interference. The appeal lacks merits and is, accordingly, rejected.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-Jagdish

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CAV DATE	
Uploading Date	30.01.2019
Transmission Date	

