

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

Letters Patent Appeal No. 1413 of 2019 (O&M)

Date of Decision: 28.11.2019

Bhim Sain

.....Appellant

versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
 HON'BLE MR. JUSTICE RAJIV SHARMA, JUDGE**

Present : Mr. Keshav Pratap Singh, Advocate, for the appellant.

RAVI SHANKER JHA, CHIEF JUSTICE (oral)

The appellant has filed this appeal being aggrieved by the order dated 03.04.2019 passed by the learned Single Judge in Civil Writ Petition No. 21286 of 2015 dismissing the writ petition filed by him against the order dated 12.12.2012 passed by the Sale Officer/Assistant Registrar, Cooperative Societies, Samana; auction notice dated 05.11.2012 and order dated 29.07.2013 by which the revision petition filed by the appellant was dismissed by the Joint Registrar, Patiala.

2. Learned counsel for the appellant submits that it is undisputed and admitted that as many as 567 awards were passed against the appellant and in favour of the society concerned amounting to total sum of Rs. 1,87,76,984/- including all other charges. He, however, submits that the auction notice issued by the respondents' authorities for recovery of the amount due from the appellant relates only to a few awards and not all of them and was confined to only Rs.32,00,325.45 paise. It is submitted that in such circumstances as the auction notice and the recovery proceedings

initiated by the respondents were confined and relate only to Rs.32,00,325.45 paise, therefore, recovery for a sum of Rs. 1,87,76,984/- from the appellant by retaining the entire sale proceeds from the sale of the appellant's land admeasuring 47 Kanals 7 Marlas in village Biyrak, Tehsil Samana, District Patiala, is contrary to law.

Learned counsel for the appellant submits that the learned Single Judge while dismissing the petition filed by the appellant vide the impugned order has failed to take into consideration the aforesaid submission or deal with it in a proper perspective and therefore, committed perversity warranting interference by this Court.

We have heard learned counsel for the appellant at length.

From a perusal of the order passed by the learned Single Judge it is apparent that the learned Single Judge has taken this aspect into consideration and decided the same against the appellant vide paragraph-9 of the impugned order. We have also heard learned counsel for the appellant on this issue. From a perusal of the record, it is evident that though the respondents' authorities issued an auction notice for recovery of Rs. Rs.32,00,325.45 paise, they were from the very beginning seeking to recover the entire amount of the awards passed against the appellant i.e. Rs. 1,87,76,984/-. This fact is evident from a perusal of the order dated 12.12.2012 passed by the Sale Officer/Assistant Registrar and order dated 29.07.2013 passed by the Joint Registrar, Patiala, wherein these issues were also raised, considered and decided against the appellant.

Apart from the above, it is undisputed fact that an amount of Rs. 1,87,76,984/- has to be recovered from the appellant in view of the awards passed against him. It is also evident from the proceedings that the

appellant from the very beginning was aware of the fact that the respondents' authorities intended to recover the entire amount of Rs. 1,87,76,984/- and has infact contested this issue before both the authorities, namely, the Assistant Registrar as well as the Joint Registrar, therefore, has not been prejudiced in any manner in taking up this issue or challenging the auction proceedings on this ground as all possible issues were raised by him and have been considered and rejected. We are also of the considered opinion that in exercise of its extra ordinary discretionary power, this Court cannot and should not interfere in the impugned orders on mere technicalities as the liability is admitted and any interference would ultimately result into perpetuation of an illegality on account of a mere technicality. We also find support for not interfering in the matter from the decisions of the Supreme Court in the cases of ***Maharaja Chitamani Saran Nath Shahdeo v. State of Bihar and others (1999) 8 SCC 16*** and ***M.C.Mehta v. Union of India and others (1999) 6 SCC 237***. (Paras 17 & 18).

In such circumstances, we do not find any perversity or illegality in the order of the learned Single Judge. The appeal filed by the appellant, being meritless is, accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(RAJIV SHARMA)
JUDGE

28.11.2019

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No