

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

Sr. No.204

CWP No.16004 of 2000 (O&M)

Date of Decision: 26.05.2022

Amrik Singh and others

.... Petitioners

Versus

The Additional Secretary, Co-operation Department
Government of Punjab, Chandigarh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. I.S.Saggu, Advocate
for the petitioners.

Mr. Navdeep Chhabra, DAG, Punjab.

Mr. R.K.Sharma, Advocate
for respondent No.5.

None for respondent No.6.

HARSIMRAN SINGH SETHI, J. (ORAL)

The present petition has been filed seeking quashing of the impugned order dated 03.08.2000 (Annexure P-3), by which a recovery of Rs.97,670/- was imposed upon the petitioners in equal shares against the amount that respondent No.6-Jalsu Ram, who was Ex-Secretary of the Society, was liable to pay, keeping in view the embezzlement done by him.

Learned counsel appearing on behalf of the petitioners submits that it is an admitted position that the amount was embezzled by respondent No.6-Jalsu Ram, who had deposited the same thereafter. Learned counsel for the petitioners argues that only allegation against the petitioners is that by passing a resolution dated 08.07.1995, respondent No.6 was exempted from depositing the interest on the embezzled money amounting to Rs.61,656/- and the authorities concerned found the said resolution arbitrary.

Learned counsel for the petitioner argues that in the said situation, respondent No.6, who was also party to the proceedings before the competent Court of law in the revision petition, the impugned order of which is under challenge and the imposition of interest should have been made on the said respondent, who had in fact embezzled the money rather than directing the petitioners to deposit the interest.

Learned counsel appearing on behalf of respondent No.5 argues that respondent No.5 became the Secretary of the society after the charge was given to him by respondent No.6, against whom the allegation of embezzlement was there. Learned counsel further submits that the petitioners were working in hand in glove with respondent No.6, so as to waive the liability with respect to interest, despite the fact that embezzlement was established at the hands of respondent No.6, who had thereon deposited the embezzled amount in question, back with the society. Learned counsel further submits that the competent Court of law rightly imposed the liability to deposit interest calculated upon the said embezzled amount upon the petitioners as they had let respondent No.6 off the hook, by passing the resolution dated 08.07.1995 exempting respondent No.6 from the deposit of the interest on the embezzled amount.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

No doubt, the resolution passed by the petitioners being the Managing Committee, exempting an official from the payment of interest upon an amount belonging to the society embezzled by him, can not be sustained in the eyes of law. The said act of the petitioners is deplorable to

all possible extents. Keeping in view the facts and circumstances of the present case, once, respondent No.6, who had actually returned the embezzled amount and was the beneficiary of the impugned resolution dated 08.07.1995, he should have been made liable for the payment of interest after setting aside the resolution, by which respondent No.6 was exempted from the payment of the interest on the embezzled amount. The petitioners, though exceeded their jurisdiction by passing the resolution, but in the absence of any substantive allegation that they were also conniving with respondent No.6, they could not have been held liable for the payment of interest on the embezzled amount.

Keeping in view the above, the matter is remanded back to the society concerned with the liberty that they can pass appropriate resolution with regard to recovery of interest upon the embezzled amount from the person who had actually embezzled the same, in case the Committee still intends to recover the said amount by giving due opportunity to respondent No.6 to explain his position. The impugned order dated 03.08.2000 (Annexure P-3) is set aside only to the extent that the liability imposed on the petitioners is set aside with liberty to the society to pass appropriate order, so as to recover the interest on the embezzled amount from respondent No.6, who had embezzled the amount and later on deposited the same.

(HARSIMRAN SINGH SETHI)
JUDGE

26.05.2022
Maninder

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No