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

CWP-9985-2022

Date of Decision: 03.08.2022

**THE PUNJAB STATE COOPERATIVE SUPPLY AND MARKETING
FEDERATION LIMITED**

.... Petitioner

Versus

**THE ZIRA COOPERATIVE MARKETING CUM PROCESSING
SOCIETY LIMITED AND ORS**

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vinod Kumar Kanwal, Advocate, for the petitioner.

JAISHREE THAKUR.J

The present writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing an order dated 03.07.2019, Annexure P-9, passed by respondent No.2 whereby the revision petition filed by the petitioner has been dismissed and order dated 08.05.2017, Annexure P-7, passed by respondent No.3 has been upheld along with order dated 06.07.2015, Annexure P-4.

In brief, the facts are that the petitioner is a Punjab State Cooperative Supply and Marketing Federation Limited (for short, Markfed) and has been fastened with a liability of paying an amount of Rs.25.51 lakhs along with interest to respondent No.1-Zira Cooperative Marketing-cum-Processing Society, towards commission charges. Respondent No.1 has been working as a Commission Agent of the petitioner-Markfed for purchasing

wheat and paddy and was entitled to recover its commission from the year 2008-09 upto 2012-13. Respondent No.1 approached petitioner on several occasions for clearing the dues, however, the petitioner delayed making the payment on one pretext or the other. Having no option, respondent No.1 filed an arbitration petition under Sections 55 and 56 of the Punjab Cooperative Societies Act, 1961 (for short, 'Act of 1961') for recovery of commission amount of Rs.25,50,844/- along with interest before the Deputy Registrar, Cooperative Societies, Ferozepur. The matter was contested and an award was passed allowing the claim of respondent No.1. Aggrieved against the said award, an appeal was filed by the petitioner which appeal was dismissed by an order dated 08.05.2017. A revision petition filed under Section 69 of the Act of 1961, was also dismissed. Aggrieved against the said orders, the instant petition has been filed.

Learned counsel appearing on behalf of the petitioner herein would contend that the authorities below have failed to appreciate that the claim of respondent No.1 was time barred. There was already a litigation pending between the parties which fact has not been taken into account. It is submitted that the amount of commission allegedly payable to respondent No.1 has been withheld for the reason that a criminal case is pending against Balwinder Singh, Salesman, who was an employee/member of the respondent society and was part of the embezzlement done by M/s Zimidara Commission Agents against whom a civil suit has also been filed. It is submitted that the criminal cases were also pending against M/s Zimidara Commission Agents.

The courts below have appreciated the contentions as raised that one Balwinder Singh who was a member of the claimant/respondent society and was involved in the embezzlement done by M/s Zimidara Commission Agents and that is why the amount of commission was not released, have been rejected outrightly by contending that the respondent society would have no connection with the alleged embezzlement done by M/s Zimidara Commission Agents and the respondent society could not be made liable for any loss that may have accrued to Markfed by the said M/s Zimidara Commission Agents. The impugned orders do not suffer from any infirmity as there can be no cause for adjustment of any dues payable to the respondent-Zira Cooperative Marketing-cum-Processing Society Limited, Zira. It is unheard of that merely on account of a salesman of the respondent-Society Balwinder Singh being associated with any embezzlement/fraud that may have been committed by a third party, that the entire dues would be held up or sought to be adjusted and paid after the recoveries have been made from said M/s Zimidara Commission Agents. The impugned orders are well reasoned and do not suffer from any infirmity.

The writ petition thus has no merits and is accordingly dismissed.

(JAISHREE THAKUR)
JUDGE

03.08.2022

sanjeev

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No