

108.

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

CWP-18053-2022

Date of Decision: 18.08.2022

J.S MEHTA @ JIT SINGH MEHTA

.... Petitioner

Versus

STATE OF HARYANA AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Y.P. Singla, Advocate, for the petitioner.

JAISHREE THAKUR.J (Oral)

The limited challenge in this writ petition is to the inaction of the Assistant Registrar, Cooperative Societies, Panchkula, respondent No.4, in so far as the applications dated 29.05.2019, Annexure P-5; dated 16.07.2019, Annexure P-7; dated 31.08.2021, Annexure P-8, filed by the petitioner are not being decided.

The brief facts of the case are that in the year 2011, respondents No.5 to 8 invested Rs.21.08 lacs with the New Banker's Coop. Thrift & Credit Society Limited, Panchkula (for short, "the Society"). However, the Ex-President Sanjeev Sharma and Cashier Kamaldeep Singh failed to return the maturity amount. This arbitration reference was entrusted to respondent No.3, who passed the award dated 18.07.2014/14.08.2014 concluding that no individual/committee members can be held responsible unless and until it is established that who misappropriated or embezzled the funds of the Society.

It was directed that proper investigation be conducted personally by Assistant Registrar, Cooperative Societies, Panchkula, respondent No.4, and also probe the role of Ex-President in laundering the money of the society and to initiate proceedings. Since in the said award, there were no specific order passed against the petitioner, his property, that was ordered to be attached before passing the award, was ordered to be released vide order dated 14.08.2014.

Respondents No.5 to 8 filed execution application dated 19.03.2018 and thereafter an appeal before respondent No.1 who, vide order dated 25.05.2018, decided that the affairs of the Society were to be investigated in detail by respondent No.2-Registrar Cooperative Societies and during investigation, he shall examine and fix the role and responsibility of persons from the past or present management and any other person, if required. It was also held that recovery be made from the Society's assets and if there are no assets, then members of the Managing Committee, both present and past, would become liable.

Respondent No.4-Assistant Registrar, Cooperative Societies, Haryana issued notice of the execution application to the petitioner and others. The petitioner put in appearance and during pendency of execution proceedings, he filed an application dated 29.05.2019, Annexure P-5, for transferring his flat in the name of his family members as he is not keeping good health, but till date, neither any notice has been issued to respondents No.5 to 8 on the said application nor any order has been passed. However, without deciding the said application, respondent No.4 passed order dated 02.07.2019 wherein it was ordered to attach his residential property along with the properties of others. Thereafter, petitioner moved an application

dated 16.07.2019, Annexure P-7, to review/modify said order, but the said application too has not been decided. The petitioner moved another application dated 31.08.2021, Annexure P-8, but that application too has been kept undecided without any notice to respondents No.5 to 8.

Learned counsel appearing on behalf of the petitioner would contend that in fact the petitioner is not a defaulter of the Society and no payment is due from him, whereas in the execution proceedings, his property stands attached. He has moved several applications for release of his property, however, the same have not been considered as on date. His limited prayer would be for respondent No.4 to decide his applications before any coercive steps are taken towards the sale of his property considering the fact that residential house cannot be put for sale. It is further contended that before the impugned order of attaching the property of the petitioner was passed, no notice was issued to him.

I have heard learned counsel for the petitioner and in view of the limited prayer made that his applications be considered and decided before any coercive step is taken for putting the attached property to sale, the present writ petition is disposed of in limine with a direction to the Assistant Registrar, Cooperative Societies, Haryana, respondent No.4, to take up the matter and decide the applications of the petitioner herein, preferably within a period of two months from the date of receipt of certified copy of this order.

18.08.2022

sanjeev

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No