

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CWP-3818-2022(O&M)

Date of decision : May 03, 2023

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CWP-3820-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CWP-3822-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CWP-3831-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CWP-3834-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CWP-3839-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Bakhshish Singh and others

..... Respondents

CWP-3886-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CWP-3890-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CWP-3895-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CWP-3896-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CWP-3897-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CWP-3918-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

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CWP-3920-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CWP-3921-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CWP-3923-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CWP-3924-2022(O&M)

The Gurdaspur Central Co-operative Bank Ltd.

..... Petitioner

Versus

Dwarka Dass and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :-Ms. Paramjit Kaur Deol, Advocate
for the petitioner.

Mr. Nikunj Dhawan, Advocate and
Mr. Dheeraj Mahajan, Advocate
for the respondents.

Mr. Arjun Partap Atma Ram, Advocate
for respondent No.1 in CWP-3839-2022.

PANKAJ JAIN, J. (ORAL)

CM-7547-2023 and other C.Ms in connected cases

1. In view of the reasons explained in the applications, the applications are allowed. The order dated 22.03.2023 is recalled. Costs as ordered in the said order are waived off.

2. The applications is disposed off.

CWP-3818-2022(O&M) and other connected cases

1. In the batch of these petitions challenge is to the order dated 03.07.2017 (Annexure P-6) passed by respondent No.8, Dy Registrar Co-operative Societies, Hoshiarpur whereby the appeal preferred by the private respondents has been accepted setting aside award dated 23.01.2017 passed by Assistant Registrar, Co-

operative Societies, Gurdaspur.

2. Keeping in view that the respondents/former employees are being sufficiently represented by able counsels, this Court does not deem it appropriate to await appearance of other respondents.

3. The petitioner is a co-operative Society registered under Punjab Co-operative Societies Act, 1961 (hereinafter referred to 1961 Act). There was a fraud running into more than Rs.1.5 crores discovered in the branch of Kanuhwan in relation to 42 accounts. An FIR No.34 dated 05.05.2011 was registered for the offences punishable under Sections 409,201,120-B IPC at Police Station Kanuhwan. Arbitration proceedings were initiated in terms of Section 55 of the 1961 Act which finally culminated in the award passed by respondent No.9 dated 23.01.2017 holding the private respondents liable to pay amounts. The award has been placed on record as Annexure P-5. The said award was challenged in appeal filed under Section 68 of the Act by the private respondents before respondent No.8. The Deputy Registrar vide impugned order allowed the appeal and set aside the award passed by the Assistant Registrar, Co-operative Societies with further directions as under:-

“On considering the above facts and the orders passed in CWP No. 22769 of 2016 I. Manjit Singh and others versus Punjab Government in Hon'ble Punjab and Haryana High Court on dates 8.11.2016 not complied by Assistant Registrar, Cooperative Societies, Gurdaspur the arbitration order passed in related appeal I Balramdass (P.C.S.-I) Deputy Registrar, Cooperative Societies Hoshiarpur understand that the order given by Assistant Registrar, Cooperative

Societies, Gurdaspur on 23.01.2017 is not justifiable. So, as the records produced and the pleadings were pleaded by appellant party and I am setting aside the order whereby Assistant Registrar, Cooperative Societies, Gurdaspur has ordered to the appellant to pay Principal Rs. 3,80,000/-, interest 2,23,630/-, expenses Rs. 60,363/- total amount of Rs. 6,63,993/- pay to the bank and the orders passed by the Hon'ble Punjab and Haryana High Court, Chandigarh on 4.11.16 is not complied with and approve the appeal filed by the appellants and dismiss the orders dated 23.1.17 given by Assistant Cooperative Societies, Registrar, Gurdaspur. It is authorized to respondent no. 2 of Gurdaspur Central Cooperative Bank Limited Gurdaspur that whenever the records pertains to this case will be traced out and bank is able to produce that record in the court then bank can produce to arbitration and present their case with fresh way. Today whereby, this case was reserved for the order on 16.06.2017 is pronounced on 03.07.2017. It is informed to the concerned parties."

4. It needs to be mentioned here that the order passed by the Writ Court relied upon by the Deputy Registrar to set aside the award reads as under:-

"Feeling aggrieved against the alleged inaction on the part of respondent authorities, petitioners have approached this Court, by way of present writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of mandamus.

Learned counsel for the petitioners submits that when the genuine grievance of the petitioners was not being redressed, they finally approached the respondent authorities by way of self-contained representation dated 05.09.2016 (Annexure P-2) but the same is also pending decision. He further submits that petitioners will be satisfied in case respondent No.2 is directed to consider and decide the representation of the petitioners within a reasonable time by passing an appropriate order thereon.

Having heard the learned counsel for the petitioners and without expressing any opinion on merits of the case, Assistant Registrar, Cooperative Societies, Gurdaspur-respondent No.2 is directed to look into the matter, consider the grievance raised by the petitioners vide their representation dated 05.09.2016 (Annexure P-2) and decide the same at an early date by passing an appropriate order thereon, strictly in accordance with law but in any case within a period of two months from the date of receipt of certified copy of this order.

It is also directed that Assistant Registrar, Cooperative Societies, Gurdaspur-respondent No.2 must not feel helpless, while issuing appropriate directions to the Bank, who is one of the parties to the litigation, to produce the relevant record before him, so as to enable the competent authority to decide the arbitration cases without any further loss of time.

With the abovesaid observations made and directions issued, instant writ petition stands disposed of.”

5. A bare perusal of the orders passed by the Writ Court would reveal that there was no direction as held by the Deputy Registrar to set aside the award as claimed in the impugned order.

6. The appellate court while exercising power under Section 68 should have proceeded to decide the appeal in accordance with law after taking into consideration records of the case. There is no power vested with the appellate authority to remand the arbitration proceedings as has been resorted to. However, in case the appellate authority found that the evidence was discrepant, at the most he could have granted an opportunity to both the parties to supplement the

evidence already on record.

7. With the consent of the parties present writ petitions are disposed off in following terms:

- i) That the impugned order is hereby set aside;
- ii) The appellate authority is directed to decide the appeal a fresh in accordance with law.
- iii) As claimed by the counsel appearing on behalf of the both the parties, in case any of the party wants to supplement the evidence already on record, the appellate authority shall grant two opportunities to each of them to do so.

8. Since the main writ petitions have been decided, all the pending applications, if any shall also stand disposed off.

9. A photocopy of this order be placed on files of other connected cases.

May 03, 2023
archana

(PANKAJ JAIN)
JUDGE

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