

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 5111 of 2020 (O&M)
Date of Decision: 09.02.2023

Hardev Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sandeep Arora, Advocate
for the petitioner.

JAISHREE THAKUR, J.

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the impugned proceedings, including the order dated 09.11.2018 (Annexure P-1) passed by the Arbitrator, Cooperative Societies, Shahpur, District Gurdaspur as well as order dated 21.11.2018 (Annexure P/2) passed by the Assistant Registrar, Cooperative Societies, Dera Baba Nank, vide which the petitioner has been subjected to make payment of ₹4,01,266/-.

2. In brief, the facts are that the petitioner had availed of a loan of ₹2,22,000/- from Dera Baba Nank Primary Cooperative Agricultural Development Bank, Limited and due to the default in making the payment, a petition under Section 63 (c) of the Punjab Cooperative Societies Act was filed. The Arbitrator issued notice calling the parties to appear before it, but the petitioner herein did not put in appearance despite having received the

requisite notice. After examination of the record, an award was pronounced by the Arbitrator holding that the petitioner was liable to pay a sum of ₹2,22,000/- as principal amount plus interest of ₹1,79,016/- and ₹250/- towards costs of the proceedings. This order was passed on 9.11.2018 and thereafter recovery notice dated 21.11.2018 was issued asking the petitioner herein to pay an amount of ₹4,01,266/-. Aggrieved against this notice, the petitioner approached this Court by way of filing the instant writ petition. When the matter initially came up for hearing, the same was adjourned in order to enable the petitioner to address arguments on the maintainability of the writ petition.

3. Learned counsel for the petitioner would contend that the petitioner herein was never put to notice about the proceedings before the Arbitrator and, therefore, was not in a position to defend the case. It is argued that it is only on account of financial hardship in the family of the petitioner that he was unable to discharge his liability within the prescribed time.

4. I have heard learned counsel for the petitioner and find that there is no ground for interference by this Court in the writ jurisdiction.

5. Admittedly, an award by the Arbitrator came to be passed on 9.11.2018 and the petitioner herein had the remedy of filing an appeal under Section 68 of the Punjab Cooperative Societies Act, 1961 against the said award, taking all the pleas, including the plea that he had not been served with any notice by the Arbitrator. But he did not do so. It is also worthwhile to note that a notice was issued to the petitioner to make the payment of the decretal amount as far back as 21.11.2018 and he

approached the Court only on 24.2.2020 against the said notice. No cogent or plausible reason is forthcoming for not availing the statutory remedy of filing an appeal or approaching this Court within a reasonable time. The law is well settled now that one has to be vigilant enough regarding his rights.

6. Consequently, finding that the petitioner ought to have availed his statutory remedy of filing an appeal, as provided under the Punjab Cooperative Societies Act, 1961, he cannot be permitted to approach this Court directly and the writ petition filed is not maintainable. Dismissed.

09.02.2023
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No