2023:PHHC:098225

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-925-2019 (O&M)
Date of Decision:- 1.8.2023

Gurcharan Kaur and another ...Petitioners

Versus

Registrar, Cooperative Societies, Punjab, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Tahaf Bains, Advocate for the petitioners.

Mr. Aman Dhir, DAG, Punjab.

Mr. Imran A.Ali, Advocate for
Mr. PIP Singh, Advocate for respondent No. 3.

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GURVINDER SINGH GILL, J.

1. The petitioners – Gurcharan Kaur and Gawinder Pal Kaur who are widow and daughter of deceased Mohinder Singh respectively, assail order dated 11.11.2016 (Annexure P-5) passed by Additional Registrar (Credit), Cooperative Societies, Punjab, Chandigarh on a petition filed under provisions of Sections 55/56 of the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as 'the Act') for recovery of an amount of Rs. 1,11,94,494/- alongwith interest, by Punjab State Cooperative Supply and Marketing Federation Ltd. (hereinafter referred to as 'MARKFED'), a State Government Public Sector Undertaking.

2. Vide said order dated 11.11.2016 (Annexure P-5), Mohinder Singh i.e. husband of petitioner no. 1 – Gurcharan Kaur and father of petitioner no. 2 – Gawinder Pal Kaur alongwith one Balwinder Singh have been held liable to deposit an amount of Rs. 1,11,94,494/-, being the loss caused to the Markfed during the period when Mohinder Singh and Balwinder Singh Puri were allegedly custodian of stock of wheat w.e.f. 1998-99, 1999-2000 and 2000-2001. Although, Mohinder Singh, through his Legal Representatives, i.e. through the petitioners preferred an appeal under Section 68 of the Act, but the same came to be dismissed vide order dated 7.8.2018 (Annexure P-24) passed by the Registrar, Cooperative Societies, Punjab, Chandigarh.
3. The short point involved in the present case is as to whether the proceedings initiated by Markfed (respondent No. 1) under provisions of Section 55/56 of the Act for recovery of an amount of Rs.1,11,94,494/- were initiated within limitation or not. The wheat stocks in question pertained to the crop year 1998-99, 1999-2000 and 2000-2001 which was found to be damaged. While Mohinder Singh had expired on 9.12.2010, the recovery proceedings under Sections 55 and 56 of the Act were initiated in the year 2014 against his Legal Representatives after his death. In other words, the proceedings were initiated after about a decade of the alleged loss to Markfed. Although, under the Act, no specific limitation is prescribed with respect of any petition filed under Section 55 of the Act but it has consistently been held by this Court that the limitation would be three years in respect of the petitions under Section 55 of the Act for recovery of the damages etc. The particulars of some of the said judgments are listed herein-under :-

Sr. No.	Case No.	Title
1	CWP-23650/2014	The Punjab State Supply & Marketing Federation Ltd. Versus State of Punjab.
2	CWP-1088/2010	S.S. Kainth Versus Financial Commissioner (Cooperation)
3	CWP-3873/2017	The Punjab State Supply & Marketing Federation Ltd. Versus Financial Commissioner (Cooperation)
4	CWP-334/2017	The Punjab State Supply & Marketing Federation Ltd. Versus Additional Registrar (D) & Others
5	LPA-1369/2017	The Punjab State Supply & Marketing Federation Ltd. Versus Additional Registrar (D) & Others
6	CWP-3033/2012	Balbir Singh Jammu Versus FCC and others
7	LPA-755/2013	Balbir Singh Jammu Versus FCC and others
8	CWP-10131-2018	The Punjab State Co-operation Supply & Marketing Federation Ltd. Versus Additional Registrar Cooperative Societies, Punjab and others

4. The aforesaid judgments are consistent to the effect that while the limitation for raising a claim in terms of Section 55 of the Act is three years, the limitation prescribed for filing an appeal in terms of Section 68 of the Act so as to challenge order passed under Section 55 of the Act is 60 days and that the Appellate Authority does not have any power to condone the delay in filing appeal. Although, during the course of arguments, the learned counsel representing the petitioner cited a Single Bench judgment of this Court rendered in *2014(4) RCR (Civil) 608 – The Chandigarh Pepsu Cooperative House Building versus The Secretary, Department of Cooperation and others* to contend that provisions of Limitation Act, 1963, do not stand attracted to proceedings under Section 55/56 of the Act, as the said proceedings are not in the nature of a suit, appeal or application but having regard to the plethora of judgments as noted above including judgments by

Hon'ble Division Benches, the view taken by the aforesaid Single Bench cannot take precedence. Thus, the limitation for initiating recovery proceedings would be three years only. In the present case, it is evident from charge-sheet dated 7.7.2006 (Annexure P-2) that the alleged shortfall had come to the notice of MARKFED in year 2006 itself whereas recovery proceedings under Sections 55 and 56 of the Act were initiated in the year 2014. Said proceedings having been initiated beyond limitation of 3 years were clearly time barred and thus, not maintainable at that stage against Lrs of Mohinder Singh.

5. In view of the discussion made above, the petition is accepted and the impugned order dated 11.11.2016 (Annexure P-5) and order dated 7.8.2018 (Annexure P-24) are hereby set aside.

1.8.2023 **(Gurvinder Singh Gill)**
kamal **Judge**

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