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(2001) 10 P&H CK 0164

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 17359 of 2000

The Bhathinda Central Co-operative Bank Ltd. and Others	APPELLANT
Vs	
The State of Punjab and Others	RESPONDENT

Date of Decision: Oct. 18, 2001

Citation: (2003) 134 PLR 733(2) : (2003) 2 RCR(Civil) 730

Hon'ble Judges: Adarsh Kumar Goel, J

Bench: Single Bench

Advocate: A.S. Khaira, for the Appellant; Pawan Bansal, for the Respondent

Final Decision: Allowed

Judgement

Adarsh Kumar Goel, J.
This writ petition challenges the order dated 9.5.2000 (Annexure P-6) passed by Special Secretary, Co-operation (Appeals.), Punjab whereby the application moved by the petitioner in the appeal filed by the respondent No. 4 - Maya Devi, for vacation of ex parte order dated 7.9.1998 and restraining the petitioner-Bank from recovering the amount awarded in their favour under the award which had become final, was dismissed.

2. Petitioner-Bank had sanctioned cash credit limit of Rs. 1,50,000/- in favour of Sangat Electric Goods Manufacturing Workshop Co-operative Industrial society Limited, Sangat for which Bagga Ram son of Tej Ram had furnished security by way of two separate registered mortgage deeds dated 3.2.1994. Since the loan was not repaid, matter was referred to the arbitrator under the provisions of the Punjab Co-operative Societies Act, 1961 and an award dated 10.5.1995 was passed holding Ashok Kumar son of Ved Raj, President of the debtor Society and Ashok Kumar son of Bagga Ram, Treasurer of the said Society liable to pay the amount and the said award became final. The petitioner-Bank took steps for execution of the award and Maya Devi mother of Ashok Kumar son of Bagga Ram filed an application before the Special Secretary, Co-operation

(Appeals), Punjab for release of the mortgaged property and vide order dated 7.9.1998, it was directed that if 50% of the amount was paid Ashok Kumar son of Bagga Ram will not be proceeded against for recovering the amount. The petitioner-bank filed an application seeking modification/vacation of order dated 7.9.1998 to the effect that it (petitioner-Bank) was entitled to recover the whole amount from the mortgaged property and the said application has been dismissed. Hence this writ petition.

3. Learned counsel for the petitioner has contended that the award had been passed and had become final and though 50% of the amount awarded had been paid by the heirs of Bagga Ram, the remaining still remains to be paid, and merely because the award was against two person, Ashok Kumar son of Ved Raj and Ashok Kumar son of Bagga Ram, it did not mean that only 50% of the amount could be recovered from Ashok Kaur son of Bagga Ram. He submitted that the liability was joint and several and the award could be execute even against one of the two, Finding force in this contention, I am of the view that the impugned order dated 9.5.1000 is illegal and unsustainable as the whole of the award could be executed against either of the judgment debtors.

4. For the above reasons, this writ petition is allowed and the impugned order dated 9.5.2000 (Annexure P-6) is quashed.