

(2010) 10 P&H CK 0310

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 11158 of 2010

Ram Saran

APPELLANT

Vs

Additional Registrar (D),
Co-operative Societies and
Others

RESPONDENT

Date of Decision: Oct. 13, 2010

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Kanwaljit Singh Ahluwalia, J.

in the present writ petition, the Petitioner, who was the Secretary of the Ashahoor Co-operative Agricultural Multipurpose Society Limited, Ashahoor, Phillaur (hereinafter referred to as "the Society"), has challenged the award dated 24.9.2004 (Annexure P1), passed by the Arbitrator, which was affirmed by the Revisional Authority, vide his order dated 30.5.2008 (Annexure P3). In the award (Annexure P1), the Arbitrator has held the Petitioner liable to pay the amount, so embezzled, in the year 2001-02 to the extent of 2/3rd. The Arbitrator, after taking the entire gamut into consideration, has held as under:

...The record of the society, special audit report for the year 2001-02, statement of Sh. Ram Saran, Secretary (under suspension) and statement made by counsel for the bank and employees of the bank and the statement given by Kulwinder Singh, member and after hearing the arguments of Sh. Davinder Kumar Gupta, Advocate, I Malkit Ram, Inspector Co-operative Societies, Mithra, being Arbitrator fixed the liability of Sh. Ram Saran, Secretary (under suspension) to the extent 2/3 share and due to connivance of the employees of the Jalandhar Central Co-operative Bank Ltd., Jalandhar, fixed their liability to the extent of 1/3 of the embezzled amount and pass the award against the Jalandhar Central Co-operative Bank Ltd., Jalandhar as under:

	Principal	Interest	Cost	Total
Ram Saran Secretary Under Suspension)	27040	11641	166	38847
The Jalandhar Central Coop. Bank Ltd. Jalandhar	13520	5820	84	19424

	40560	17461	250	58271

If the amount is not recovered from Sh. Ram Saran, Secretary (under suspension) and the Jalandhar Central Co-operative Bank Ltd. Jalandhar in ordinary manner the first party-society have a right to take action against them u/s 63A, 63B and 63C of the Punjab Co-operative Societies Act, 1961. The interest will continue with the awarded amount till its recovery. The Jalandhar Central Co-operative Bank Ltd., Jalandhar can recover the awarded amount from Sh. Ram Asra, Manager and Hans Raj, Accountant (Loan Clerk). The award is reserved on 09.09.2004, which has been written today on 24.09.2004. Both the parties may be informed regarding this decision through post.

2. Mr. Ashwani Prashar, Advocate, appearing for Respondent No. 4, has submitted that on 26.2.2004 a resolution was recorded by the Petitioner in his own hand in the proceedings book wherein he admitted that the amount of Rs. 4,00,652/-, detected by the Auditor, is correct.

3. Learned Counsel for the Petitioner has also urged that an affidavit to this effect that the Petitioner alone is responsible to pay the amount, was also sworn by the Petitioner under duress. In the said affidavit, Annexure P5 in the other Civil Writ Petition No. 17826 of 2009, he has further stated that the amount of Rs. 60,000/- has been deposited and the balance amount was to be deposited by the Petitioner upto 31.1.2004. He has further stated that the affidavit was obtained from the Petitioner due to coercion by Respondent No. 2-Assistant Registrar, Co-operative Societies, Jalandhar-II. The said affidavit was lateron withdrawn by the Petitioner.

4. Be that as it may, the Arbitrator, after considering the entire matter, gave the well reasoned award (Annexure P1), which was upheld by the Revisional Authority. The Petitioner, being a Secretary of the Society, was dealing with its day-to-day affairs. In the special audit undertaken, the embezzlement was detected. Petitioner cannot escape from the admission made by him.

5. The Writ Court will only examine as to whether the principles of natural justice have been adhered to and the procedure followed is fair or not. This Court will refrain from re-appreciating and doing reappraisal of the evidence, which was brought before the Arbitrator. Furthermore, the order dated 30.5.2008 (Annexure

P3), passed by the Revisional Authority, suffers from no infirmity.

6. Hence, no interference is warranted in the present writ petition and the same is hereby dismissed, with no orders as to cost.