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(8) For the reasons stated above, the impugned order cannot be sustained and the same is hereby quashed. The writ petition stands allowed with no order as to costs.

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**R.N.R.**

*Before N.K. Sodhi & N.K. Sud, JJ*

THE KOT SHAMIR COOPERATIVE AGRICULTURAL  
SERVICE SOCIETY LTD.,—*Petitioner*

*versus*

THE STATE OF PUNJAB & OTHERS,—*Respondents*

*C.W.P. No. 18138 of 1997*

16th November, 1999

*Constitution of India, 1950—Art. 226—Punjab Cooperative Societies Act, 1961—Ss. 13, 55, 56, 63(b) & 69—Punjab Co-operative Societies Rules, 1963—Rl. 72—Awards passed by the Arbitrator against respondent No. 3 for embezzlement—Appeals dismissed—Writ of demand issued—Commissioner allowing the appeal of the respondent holding that the petitioner—Society not competent to recover the amounts of another Society after bifurcation—Auction of property of respondent—Respondent failed to challenge the sale of property within a prescribed period—Deputy Registrar exercising the powers of Registrar confirming the sale under section 72 (14)(iii) in favour of auction purchaser—Order of the Registrar entertaining the revision petition of the respondent under section 69 against the order of Deputy Registrar is without jurisdiction—Orders of the Registrar as well as the Financial Commissioner quashed.*

Held that the order dated 8th May, 1995 confirming the sale had been passed by the Deputy Registrar by exercising powers of the Registrar under section 63 of the Act. The said order, therefore, would be deemed to have been passed by the Registrar and as such no revision against such an order could be filed before the Registrar.

(Para 6)

Further held, that the Deputy Registrar had passed the order dated 8th May, 1995 as a delegatee of the Registrar and as such the revision petition under section 69 against this order could lie only before the State Government and not before the Registrar himself. Thus, the order of the Registrar Co-operative Societies passed on

24th July, 1996 entertaining a revision against the order of the Deputy Registrar dated 8th May, 1995 was without jurisdiction. That being so, the order of the Financial Commissioner dated 7th August, 1997 upholding such an illegal order would also be illegal. We, therefore, quash both the aforesaid orders.

(Para 6)

D.V. Sharma, Advocate, *for the petitioner*

Gurminder Singh, DAG *for respondents No. 1 and 2*

Rup Chand Chaudhary, Advocate, *for respondents 3 and 4*

Ashok Singal, Advocate, *for respondent 5.*

### JUDGMENT

*N.K. Sud, J.*

(1) The petitioner, the Kot Shamir Cooperative Agricultural Service Society Lotd., Kot Shamir, Tehsil & District Bhatinda (for short "the Society"), is a co-operative society registered under the provisions of the Punjab Co-operative Societies Act, 1961 (for short "the Act"). Harbans Lal, respondent No. 3, is an ex-Secretary of the Society. During his tenure he had embezzled huge amounts of the Society in respect of recoveries made from members and their share money etc. Consequently, the Society had raised arbitration disputes under section 55 of the Act and had obtained more than 170 awards against him under Section 56 of the Act. The revision petitions filed by Harbans Lal against the aforesaid awards had also been dismissed by the Commissioner, Appeals (Jalandhar),—*vide* order dated 26th September, 1990. The land of Harbans Lal had already been attached against the recovery of the embezzled amount. The Society, therefore, applied to the Registrar for the execution of some of the awards under section 63(b) of the Act. As per the procedure laid down under Rule 72 of the Punjab Co-operative Societies Rules, 1963 (for short "the Rules"), a writ of demand dated 29th April, 1988 was issued to Harbans Lal. Instead of paying the amount, he filed a revision petition against this writ of demand before the Commissioner (Appeals), Jalandhar Division. This revision petition was allowed on the ground that the petitioner-society could proceed to recover the amount in respect of the amounts in its own name and not in respect of the amount pertaining to the Gulabgarh Co-operative Agricultural Service Society Ltd. It may here be mentioned that the awards had been passed in favour of the petitioner-society but thereafter under Section 13 of the Act the society had been bifurcated and another Society namely the Gulabgarh

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Co-operative Agricultural Service Society Ltd. had been incorporated. Some of the members, whose amounts had been embezzled by Harbans Lal, had gone to the new Gulabgarh Society and it is in respect of the amounts of these members that the Commissioner in the revisional order had held that the petitioner-society was not competent to recover the same.

(2) Harbans Lal had also filed a civil suit for temporary injunction restraining the sale officer from auctioning his land against recovery of the awarded amount against him. However, he did not succeed in these proceedings. Similarly, he had also filed a writ petition in this Court praying for quashing of the awards and for seeking stay of the sale of his property but the same had been got dismissed as withdrawn.

(3) In the meantime the sale officer had auctioned the land measuring 8.18 kanals at Katar Singhwala for Rs. 1,61,000 under some of the awards. As no application under sub rule (14) of Rule 72 of the Rules had been received by the Recovery Officer within the stipulated period of 30 days, he confirmed the same in favour of Rachhpal Singh, the auction purchaser,—*vide* his order dated 8th May, 1995 as per the provisions of Rule 72 (14) (iii) of the Rules. Harbans Lal filed a revision petition under Section 69 of the Act before the Registrar, Co-operative Societies, Punjab, Chandigarh, challenging the order dated 8th May, 1995 confirming the sale on various grounds. The petitioner filed a short written statement before the Registrar raising a preliminary objection that the revision petition was not maintainable on two grounds. Firstly it was pointed out that since the impugned order dated 8th May, 1995 has been passed by the Deputy Registrar exercising the powers of the Registrar, no revision under section 69 of the Act could be filed before the Registrar. Secondly it was pleaded that since Harbans Lal had not challenged the sale of property before the Recovery Officer within the stipulated period of 30 days as provided under Rule 72(14)(i) of the Rules, the impugned order confirming the sale could not be challenged by him.

(4) The Registrar did not deal with the first objection at all. However, he over-ruled the other objection on the ground that since Harbans Lal was in jail at the relevant time he could not possibly have challenged the same. He, therefore, allowed the revision petition,—*vide* his order announced on 24th July, 1996 cancelling the sale of land through auction. He further directed that bid amount of Rs. 1,61,000 paid by the auction purchaser Rachhpal Singh be

refunded to him with simple interest at the rate of 5%. Aggrieved by the order of the Registrar, the petitioner filed a revision under Section 69 of the Act before the State Government and raised various grounds. The said revision petition was dismissed,—*vide* order dated 7th August, 1997. It is against these orders of the Registrar, Cooperative Societies and the Financial Commissioner that the present writ petition has been filed.

(5) Having heard the counsel for the parties and after perusing the relevant provisions of the Punjab Co-operative Societies Act, 1961 and the Rules framed thereunder, we are satisfied that the petitioner must succeed on the preliminary ground itself. The order dated 8th May, 1995 passed by the Deputy Registrar Co-operative Societies had been passed under Rule 72(14) (iii) of the Rules which is reproduced below :—

“(iii) On the expiration of thirty days from the date of sale, if no application to have the sale set aside is made or if such application has been made and rejected, the said Recovery Officer shall make an order confirming the sale .”

Further the “Registrar” has been defined in clause (j) of Section 2 which reads as under :—

“Registrar” means a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act.”

(6) From a conjunctive reading of the above provisions, it is evident that the order dated 8th May, 1995 confirming the sale had been passed by the Deputy Registrar by exercising the powers of the Registrar under Section 63 of the Act. The said order, therefore, would be deemed to have been passed by the Registrar and as such no revision against such an order could be filed before the Registrar. This proposition stands settled by the decision of a Division Bench of this Court in the case of *Brij Lal vs. State of Punjab (1)* wherein it had been held that where the orders sought to be revised had been passed by the Registrar or his delegatee, the powers of revision under section 69 vested in the State Government and not in the Registrar. It had been clarified that when an order is passed by a delegatee of the Registrar, it is deemed to be the order of the Registrar himself. Similar view was taken by another Division Bench of this Court in the case of *Rajinder Pal Singh vs. State of Punjab (2)*. In the present case also the Deputy Registrar had passed the order dated 8th May,

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(1) 1973 P.L.J. 462

(2) 1997 P.L.J. 441

1995 as a delegatee of the Registrar and as such the revision petition under section 69 against this order could lie only before the State Government and not before the Registrar himself. In this view of the matter, the order of the Registrar, Co-operative Societies passed on 24th July, 1996 (Annexure P.9) entertaining a revision against the order of the Deputy Registrar dated 8th May, 1995 was without jurisdiction. That being so, the order of the Financial Commissioner dated 7th August, 1997 (Annexure P-10) upholding such an illegal order, would also be illegal. We, therefore, quash both the aforesaid orders.

(7) Since the impugned orders have been quashed on the preliminary legal issue only. We do not consider it necessary to go into the other issues raised on behalf of the parties. The writ petition stands allowed. No costs.

**R.N.R.**

*Before N.K. Sodhi & Bakhshish Kaur, JJ*

THE KIRANJ COOPERATIVE CREDIT & SERVICE  
SOCIETY LTD.,—*Petitioner*

*versus*

THE STATE OF HARYANA & OTHERS,—*Respondents*

*C.W.P. NO. 14272 of 1997*

29th March, 2000

*Constitution of India, 1950—Art. 226—Haryana Co-operative Societies Act, 1984—Ss. 27 114 & 115—Managing Committee of the society allegedly passing a resolution & appointing the respondent as a Clerk—Deputy Registrar rescinding the resolution after hearing the members of the Managing Committee—Registrar dismissing the appeal of the respondent filed under section 114 of the Act—Writ filed by respondent against the order of the Registrar also dismissed by the High Court—Commissioner-cum-secretary to State Government allowing the appeal of the respondent & remanding the case to the Registrar—Whether the State Government can revise the order of the Registrar which was affirmed by the High Court—Held, no—State Government being a court inferior to the High Court could not revise the order of the Registrar—order passed by the State Government set aside.*