

The Jullundur Central Co-operative Bank, Ltd. v. Gian Singh (Tuli, J.)

basis of such profits or gains as contended by the Revenue; or it is charged on the total receipt during an assessment year of an assessee irrespective of the fact whether it made any profits or not, as argued by the learned counsel for the assessee.

(9) I would, accordingly, answer the question referred to us in the negative. There will be no order as to costs.

S. S. Sandhawalia, J.—I agree.

B. S. G.

REVISIONAL CIVIL

Before D. K. Mahajan and Bal Raj Tuli, JJ.

THE JULLUNDUR CENTRAL CO-OPERATIVE BANK LTD,—*Petitioner.*

versus

GIAN SINGH,—*Respondent.*

Civil Revision No. 934 of 1969.

December 17, 1970.

The Punjab Co-operative Societies Act (XXV of 1961)—Sections 55 and 79—Dispute arising out of conditions of service between a co-operative society and its employees—Whether referable to arbitration under section 55—Notice under section 79 by an employee of a co-operative society—Whether essential before filing a suit arising out of such dispute.

Held, that a dispute between a co-operative society and an employee arising out of the conditions of his service, including dismissal or removal from service, is not referable under section 55 of Punjab Co-operative Societies Act. A dispute of this kind, therefore, can be tried in a civil court or by an industrial Court on a reference by the State Government.

(Para 2)

Held, that notice under section 79 of the Act is required to be delivered to the Registrar, Co-operative Societies only if the suit against a co-operative society arises out of any act touching its business and not for every suit. The Registrar has been given certain powers to supervise and control the working and business of the co-operative society in order to see that it is carried on in accordance with the principles of co-operation and according to the provisions of the Act. He is not concerned with other activities of the co-operative society and its disputes with the strangers or its employees arising out of their service conditions. It is, therefore, not necessary

to serve a notice as prescribed in section 79 on the Registrar before an employee of a co-operative society files a suit against a co-operative society regarding the dispute arising out of his service conditions. The Registrar has no jurisdiction in the matter. The Legislature only intended the delivery of notice to the Registrar in order to enable him to mediate with the co-operative society for settling the claim of the plaintiff who intended to file the suit. The power of the Registrar can be invoked for this purpose only if he has jurisdiction in the matter and he can exercise his power in that behalf to compel the co-operative society to decide the matter in a certain manner. If he cannot exercise that power, there is no point in giving a notice to him before filing any suit against the co-operative society.

(Para 2)

Petition under Section 115 C.P.C. for revision of the order of Shri Jai Kumar Goel, Sub-Judge, III Class, Jullundur, dated 6th October, 1969, ordering that the dismissal of the plaintiff is not covered under the words "touching the business of the society" and, there was no necessity of issuance of a notice u/s 79 of the Act and further that Civil Court has jurisdiction to hear the suit and is not at all barred u/s. 82(c) of the Act.

KULDIP SINGH AND R. S. MONGIA, ADVOCATES, for the petitioner.

J. L. GUPTA, ADVOCATE, for the respondent.

JUDGMENT

The judgment of this Court was delivered by :—

B R. Tuli, J.—The respondent, Gian Singh, filed a suit against the petitioner, Jullundur Central Co-operative Bank Ltd.; challenging his dismissal from service. On behalf of the petitioner—bank two preliminary objections were taken, (i) that the civil Court had no jurisdiction to try the suit as the matter should have been referred to arbitration under section 55 of the Punjab Co-operative Societies Act, 1961; (hereinafter called the Act), and (ii) that under section 79 of the Act the suit could not be filed without giving three months' notice to the petitioner-bank, which admittedly had not been given. We have today decided *Mustafabad Cane Growers Co-operative Society Ltd., v. Suraj Bhan Tyagi and others*, (1), wherein we have held that the dispute between a co-operative society and an employee arising out of the conditions of his service, including dismissal or removal from service is not referable under section 55 of the Act. As such, a dispute of this kind can be tried in a civil

(1) L.P.A. No. 250 of 1970 decided on 17th December, 1970.

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Court or by an industrial court on a reference by the State Government. There is, therefore, no merit in the first point raised on behalf of the petitioner-bank.

(2) We also do not find any substance in the second point urged on behalf of the petitioner-bank. Section 79 of the Act is in these terms :—

"79. *Notice necessary in suits.*—No suit shall be instituted against a co-operative society or any of its officers in respect of any act touching the business of the society until the expiration of three months next after notice in writing has been delivered to the Registrar or left at his office stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left."

The learned counsel for the petitioner emphasises that the words "in respect of any act touching the business of the society" only refer to the words "any of its officers" and not to the "co-operative society". It is, therefore, submitted that any kind of suit against a co-operative society cannot be instituted until the expiration of three months next after the notice in writing has been delivered to the Registrar or left at his office stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, whereas a suit against any of its officers will require compliance of a notice prescribed in section 79 only if it arises out of an act touching the business of the society. We are unable to agree to this submission. In our opinion, the notice is required to be delivered only if the suit against a co-operative society arises out of any act touching its business and not in every suit. The Registrar has been given certain powers to supervise and control the working and business of the co-operative society in order to see that it is carried on in accordance with the principles of co-operation and according to the provisions of the Act. He is not concerned with other activities of the co-operative society and its disputes with the strangers or its employees arising out of their service conditions. It is, therefore, not necessary to serve a notice as prescribed in section 79 on the Registrar of Co-operative Societies as he has no jurisdiction in the matter. The Legislature only intended the delivery of notice to the Registrar in order to enable him

to mediate with the co-operative society for settling the claim of the plaintiff who intended to file the suit. The power of the Registrar can be invoked for this purpose only if he has jurisdiction in the matter and he can exercise his power in that behalf to compel the co-operative society to decide the matter in certain manner. If he cannot exercise that power, then there is no point in giving a notice to him before filing any suit against the co-operative society.

(3) For the reasons given above, there is no merit in this petition which is dismissed but without any order as to costs.

B. S. G.

MISCELLANEOUS CIVIL

Before A. D. Koshal, J.

NAND RAM AND OTHERS,—*Petitioners.*

versus

THE STATE OF PUNJAB AND OTHERS,—*Respondents.*

Civil Writ No. 169 of 1965.

December 18, 1970.

East Punjab Holdings (Consolidation and Prevention of Fragmentation Act (L of 1948)—Section 2(bb)—Temple—Whether falls within the definition of "common purpose".

Held, that the provisions of clause (bb) of section 2 of East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 specifically extend the meaning of the phrase "common purpose" to public places of religious and charitable nature. Once a temple is shown to be a public place of religious nature, the extending clause beginning with the words "and includes the following purposes" at once makes the temple a "common purpose". It is not necessary to prove that the temple fulfills a need common to all the inhabitants of the village. (Para 3)

Petition under Articles 226/227 of the Constitution of India praying that a writ in the nature of certiorari mandamus or any other writ, order or direction be issued quashing the impugned portion of the scheme relating to the mandir.

M. M. PUNCHHI, ADVOCATE, for the petitioners.

P. N. AGGARWAL, ADVOCATE, for Respondent 5.

G. S. CHAWLA, ADVOCATE FOR ADVOCATE-GENERAL, PUNJAB.