



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.464 of 2020

Decided on: 11.08.2025

Smt. Nalini Vaidya	... Petitioner
Versus	
The Mandi Urban Co-operative Bank Limited	... Respondent

Coram
Hon'ble Mr. Justice Ajay Mohan Goel, Judge.
Whether approved for reporting?¹Yes

For the petitioner	:	Mr. Rajeev Sood, Advocate.
For the respondent	:	Mr. Radhey Shyam Gautam, Advocate.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has, *inter alia*, prayed for the following relief:-

"It is, therefore, most humbly and respectfully prayed that this petition may kindly be allowed and the impugned order dated 23.11.19 which was supplied to the petitioner on the 16.03.20 passed by Collector Cum Deputy Registrar Co-operative Societies, (Central Division) Mandi Distt. Mandi on the the objections filed by petitioner may very kindly be set aside and quashed and the objection petition filed by the petitioner be ordered to be allowed in the interest of justice."

2. The grievance of the petitioner is that in the execution proceedings initiated against him by the respondent, in terms of the impugned order, the objections raised by the petitioner against the execution proceedings have been rejected on the ground that there is no jurisdiction in terms of the Himachal Pradesh Co-operative Societies Act, to raise any objection at the time of execution process.

¹ Whether reporters of the local papers may be allowed to see the judgment?

3. Having heard learned counsel for the parties and having perused the impugned order, this Court is of the considered view that the same is not sustainable in the eyes of law.

4. A perusal of Section 87 of the Himachal Pradesh Co-operative Societies Act, 1978 demonstrates that in terms thereof, the orders passed under Section 69 and 86 as well as an Award made under Section 73 of the Act and other orders passed under Sections 93 and 94 of the Act are to be executed in accordance with law and under the Rules for the time being in force for recovery of arrears of land revenue.

5. The relevant provision of Section 87 of the Himachal Pradesh Co-operative Societies Act reads as under:-

“ 87-Execution of orders.- 2[(1) Every order made by the Registrar under section 69 or under section 86, every decision or award made under section 73 and every order made under section 93 or 94, shall, if not carried out, be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue;

provided that an application for the recovery of any sum shall be made-

(i) to the Collector and shall be accompanied by a certificate signed by the Registrar or by any person authorised by him in this behalf; (ii) within twelve years from the date fixed in the order, decision or award and if no such date is fixed, from the date of order, decision or award.]

(2) Any private transfer or delivery of, or encumbrance or

charge on, property, made or created after the issue of the certificate of the Registrar or any person authorised by him, as the case may be, under sub-section (1), shall be null and void as against the society on whose application the said certificate was issued.”

6. Section 89 of the Himachal Pradesh Co-operative Societies Act further provides as under:-

“89. Registrar or person empowered by him to be civil court for certain purposes.- The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any power under this Act for the recovery of any amount by the attachment and sale or by the sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step in aid of such recovery; to be civil court for the purposes of Article 136 of the first Schedule to the Limitation Act, 1963, (36 of 1963).”

7. In light of said statutory provisions, which *inter alia* provide that the Awards which entail recovery are to be executed in terms of the law and Rules in force for recovery of arrears of land revenue, obviously it cannot be said that the execution filed by the Award Holder has to be decided by the Executing Agency in a mundane manner without hearing the other party. In fact, the findings returned by the Authority in the impugned order are otherwise not sustainable in the eyes of law, because it is settled principle of law that no one can be condemned unheard.

8. As the right of execution of the Award is conferred upon the Award Holder, it *ipso facto* assimilates in it the principles of

natural justice, which would include providing an opportunity to the Judgment Debtor to oppose the execution if the Judgment Debtor can do so in accordance with law.

9. Therefore, the findings returned by the Authority that as the Himachal Pradesh Co-operative Societies Act and Rules do not provide for filing of any objections in the course of deciding the execution proceedings, no objections can be entertained, are not sustainable in the eyes of law. The mechanism of natural justice is inbuilt and inherent and no one can be condemned unheard. This principle has to be honoured in the course of the execution of the execution proceedings under the Himachal Pradesh Co-operative Societies Act, 1968.

10. Accordingly, this petition is allowed and impugned order dated 23.11.2019 (Annexure P-1) is quashed and set aside and it is directed that the Collector-cum-Deputy Registrar shall decide the execution proceedings afresh after taking into consideration the objections filed by the present petitioner and deciding the same in accordance with law. Let needful be done within a period of six weeks from today.

11. The petition stands disposed of. Interim order, if any, stands vacated. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

August 11, 2025
(Rishi)