

A

K.K. SHARMA

v.

KULWANT SINGH AND ORS.

APRIL 25, 1997

B

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

C

*Bank—Pecuniary loss to—Chairman of Board of Directors—Alleged use of Bank car for unofficial purposes—Also purchase of furniture not for bank use—Enquiry conducted—Decision to recover the expenses from him—Challenged before High Court—Order quashed by the High Court—On appeal, Joint Registrar of Co-operative Societies directed to pass a reasoned order after giving an opportunity of hearing—Finding by the Joint Registrar to the effect that Bank car was used in the discharge of duties as Chairman—Furniture purchased used by the Bank—No pecuniary loss to the Bank—Held : In view of the above finding, the direction issued for recovery of the costs personally from the appellant not warranted and High Court rightly quashed the order.*

D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3431 of 1997.

E

From the Judgment and Order dated 18.4.95 of the Punjab and Haryana High Court in C.W.P. No. 9648 of 1994.

Neeraj Kumar Jain and Ms. Abha R. Sharma for the Appellant.

F

R.S. Sodhi for the Respondents.

The following Order of the Court was delivered :

Delay condoned.

G

Leave granted.

We have heard learned counsel on both sides.

This appeal by special leave arises from the judgment of the Division Bench of the Punjab and Haryana High Court, made on April 18, 1995 in

H

Civil Writ Petition No. 9648/1994.

The first respondent had purchased furniture and said to be used the bank car for unofficial purposes. On that ground, he was surcharged. The inspection report dated may 4, 1993 would indicate that the first respondent as President of the Bank had not used the car while performing duties and responsibilities according to the statutory provisions and the expenditure incurred in that behalf and the value of the furniture purchase were liable to be recovered from them personally. The enquiry conducted in the behalf revealed that the first respondent had made unauthorised use of the bank car and had made purchase of the furniture etc. It was opined that he had needlessly incurred the expenditure and, therefore, the same was liable to be recovered from him as surcharge. When he challenged this order in the High Court, the High Court allowed the writ petition and quashed the surcharge order and the Annexure P. 5 imposing surcharge with cost of Rs. 5,000 to be borne by the State with the liberty to proceed against the appellant for recovery thereof. When the matter had come up before us, we directed the Joint Registrar, Co-operative Societies to give an opportunity of hearing to the Ist respondent and then to pass a reasoned order whether he had caused any loss to the Bank of which he is the Chairman. In the Order dated April 9, 1997, the Registrar, after elaborate consideration held that the respondent had incurred expenditure in the sum of Rs. 1,15,888 towards the use of the vehicle to attend various official functions. He also incurred expenditure in the sum of Rs. 1,01,650.48 towards the expenditure for the purchase of the furniture. He actually performed the journey and used the car in the discharge of his duties as a Chairman of the Board of the Directors of the Bank. He also purchased the furniture and the furniture is being used by the Bank and thereby he has not caused any pecuniary loss to the Bank.

In view of the above finding, the direction issued for recovery of the costs personally from the appellant is not warranted and the High Court has rightly quashed the surcharge order.

The appeal is accordingly allowed. No costs.

G.N.

Appeal allowed.