CNR No: PHHC011326422023
2026:PHHC:137676

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-6101-2023

Ramji Lal (since deceased) thr his LRs . . . . Petitioner

Vs.

Roshan Lal and Ors. . . . . Respondent

****

Reserved on: 22.09.2026
Pronounced on: 23.09.2026
Pronounced fully/operative part: Fully
****

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Argued by:- Mr. Ravish Bansal, Advocate for the petitioner.

Mr. Amit Aggarwal, Advocate for the respondents.

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DEEPAK GUPTA, J.

The present revision petition has been filed by the defendants assailing the order dated 07.08.2023 *(Annexure P-6)* passed by the learned Civil Judge (Junior Division), Faridkot, whereby their application seeking reference of the dispute to arbitration has been dismissed.

2. The facts, in brief, are that respondent No.1-plaintiff instituted a suit seeking a declaration to the effect that he is entitled to have his name entered as a member, having one share, in defendant No.1-Cooperative Society, namely, The Kotkapura Scheduled Caste Land Owning Society, Kotkapura. During the pendency of the suit, the defendants moved an application seeking reference of the dispute to arbitration, relying upon the arbitration mechanism applicable to the Society under the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as 'the 1961 Act').

3. The case of the defendants before the learned trial Court was that the relevant record of the Society had been produced subsequently and, on examination thereof, they came to know about the arbitration clause contained

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in the agreement dated 16.06.1956 entered into between the Governor of Punjab and the Societies registered under the 1961 Act. According to them, immediately thereafter they sought amendment of their written statement so as to incorporate the objection regarding the jurisdiction of the Civil Court. The amendment was allowed by the learned trial Court vide order dated 10.05.2023 and the amended written statement was thereafter filed. The application seeking reference was then moved along with the amended written statement. These facts are also recorded in the impugned order.

4. The plaintiff opposed the application primarily on the ground that the written statement had already been filed and evidence had commenced and, therefore, the objection seeking reference to arbitration was belated.

5. The learned trial Court accepted the said objection and proceeded to examine the application with reference to Section 8 of the Arbitration and Conciliation Act, 1996. It held that the original written statement constituted the first statement of the defendants and that, even if the amended written statement were to be treated as the first statement, the application for reference should have been filed before, and not along with the amended written statement. The application was accordingly dismissed.

6. Learned counsel for the petitioners has assailed the aforesaid approach. It is submitted that the learned trial Court failed to appreciate that the petitioners are not seeking reference merely on the basis of a private arbitration agreement so as to attract the restrictions contained in Section 8 of the Arbitration and Conciliation Act, 1996. The dispute, according to learned counsel, is one which is required to be dealt with under the special mechanism contained in Sections 55 and 56 of the 1961 Act. Reliance has been placed upon the Full Bench judgment of this Court in ***Mam Raj v. State of Haryana, AIR 1982 Punjab & Haryana 211.***

7. Learned counsel for the respondent-plaintiff, on the other hand, supports the impugned order and submits that the application was moved after considerable progress in the suit and that the defendants, having already

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submitted to the jurisdiction of the Civil Court, could not seek reference at such a belated stage.

8. The question, which arises for consideration is, therefore, whether the defendants' application seeking reference of the dispute to arbitration was liable to be rejected merely because it was moved after filing of the original written statement and commencement of evidence.

9. In the considered opinion of this Court, the question has to be examined in the context of the statutory scheme relied upon by the defendants. The learned trial Court has proceeded primarily on the basis of Section 8 of the Arbitration and Conciliation Act, 1996. Section 8 deals with a situation, where a judicial authority is seized of a matter, which is the subject of an arbitration agreement between the parties and prescribes the stage at which an application seeking reference is required to be made.

10. The present case, however, involves a Cooperative Society governed by the Punjab Cooperative Societies Act, 1961. Sections 55 and 56 of the said Act constitute a special statutory mechanism for resolution of disputes touching the constitution, management or business of a Cooperative Society. Section 55 provides for reference of such disputes to the Registrar, while Section 56 contemplates adjudication of the dispute in the manner prescribed therein, including reference to an arbitrator in the circumstances contemplated by the Act.

11. Section 82 of the 1961 Act assumes significance in this regard. It places an express restriction upon the jurisdiction of the Civil Court in respect of matters, which are required to be referred under Section 55. Thus, where a dispute falls within Section 55, the question is not merely whether one party has exercised an option to invoke an arbitration agreement within the time contemplated by Section 8 of the 1996 Act. The more important question is whether the Civil Court possesses jurisdiction at all to adjudicate the dispute.

12. The Full Bench judgment of this Court ***in Mam Raj v. State of Haryana (supra)***, has considered the scope and effect of the aforesaid

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provisions. The Full Bench recognised the special statutory machinery created by the Cooperative Societies Act for adjudication of disputes touching the constitution, management or business of a Cooperative Society and the corresponding exclusion of the jurisdiction of the Civil Court in matters falling within the statutory field.

13. Consequently, the stage at which an objection regarding such statutory forum is raised cannot, by itself, be treated as determinative of the question of jurisdiction. If the dispute is one, which the statute requires to be referred under Section 55, the jurisdiction of the Civil Court cannot be conferred merely because a written statement has already been filed or evidence has commenced.

14. At the same time, it would not be appropriate for this Court in the present revision to mechanically direct reference to arbitration without first examining whether the dispute in question actually falls within the ambit of Section 55 of the 1961 Act and whether the statutory requirements for such reference are satisfied.

15. In the present case, the suit is for a declaration of the plaintiff's entitlement to have his name entered as a member having one share in defendant No.1-Cooperative Society. Thus, the claim directly concerns the plaintiff's alleged membership of the Society. The nature of the relief sought and the status of defendant No.1 as a Cooperative Society prima facie bring the dispute within the statutory field concerning the constitution and affairs of the Society.

16. The learned trial Court, however, has not examined the defendants' application from this perspective. Instead, it has proceeded on the assumption that the application necessarily had to satisfy the requirement of Section 8 of the Arbitration and Conciliation Act, 1996. This approach has resulted in reaching the material question, as to whether the dispute is one falling within the special statutory mechanism of Sections 55 and 56 of the 1961 Act, which has not been examined by the trial court

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17. The fact that the defendants had initially filed a written statement without raising the objection cannot, by itself, be treated as a waiver of a statutory bar of jurisdiction. Similarly, the commencement of evidence cannot confer jurisdiction upon a Civil Court, which is otherwise excluded by a special statute. The issue of inherent lack of jurisdiction stands on a different footing from a procedural objection, which a party may be required to raise at a particular stage.

18. The circumstances, in which the present application came to be filed, are also relevant. The defendants had specifically pleaded that the Society's relevant record was not initially available to them and that, after the record was produced pursuant to applications for production of documents, they came to know of the arbitration mechanism relied upon by them. The record further shows that the learned trial Court itself permitted amendment of the written statement on 10.05.2023, after which the amended written statement was filed. The plea of the defendants, therefore, could not have been rejected solely on the ground that it was belated without examining whether the statutory provisions relied upon by them excluded the jurisdiction of the Civil Court.

19. It is clarified that the Court is not holding that an application under Sections 55 and 56 of the 1961 Act can, in every conceivable circumstance, be made at any point of time irrespective of limitation or other statutory requirements. The limited finding is that the restriction contained in Section 8 of the Arbitration and Conciliation Act, 1996 cannot be applied mechanically to defeat a statutory remedy under the 1961 Act, particularly when the consequence of Sections 55 and 82 may be exclusion of the jurisdiction of the Civil Court itself.

20. In view of the above, the impugned order dated 07.08.2023 (Annexure P-6) cannot be sustained. The application seeking reference could not have been rejected merely by applying the requirement contained in Section 8 of the Arbitration and Conciliation Act, 1996.

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21. The revision petition is accordingly allowed. The impugned order dated 07.08.2023 is set aside. The application filed by the defendants seeking reference of the dispute to arbitration is restored to the file of the learned trial Court for fresh consideration.

22. The learned trial Court shall examine, in the first instance, whether the dispute forming the subject matter of the suit falls within the ambit of Section 55 of the Punjab Cooperative Societies Act, 1961 and, consequently, whether the jurisdiction of the Civil Court is barred under Section 82 thereof. If the dispute is found to be covered by the statutory mechanism, the learned trial Court shall pass appropriate consequential orders in accordance with Sections 55 and 56 of the Act. The application shall not be rejected merely on the ground that it was filed after the original written statement or after commencement of evidence.

23. Nothing contained in this order shall be construed as an expression of opinion on the merits of the plaintiff's claim for membership or on the ultimate applicability of Sections 55 and 56 to the particular dispute. The learned trial Court shall decide the application afresh in accordance with law and after affording due opportunity of hearing to all concerned.

24. The parties shall appear before the learned trial Court on 05.10.2026.

25. The revision petition stands disposed of in the above terms. Pending application(s), if any, also stand disposed of.

(DEEPAK GUPTA)
JUDGE

23.09.2026
Neetika Tuteja/yogesh

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No

Uploaded on.: 24.09.2026

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