



2026:AHC:13536-DB

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 44298 of 2025

Haripuram Sahakari Awas Samiti Limited And
Another

.....Petitioner(s)

Versus

State Of U.P And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Abhishek Misra
Counsel for Respondent(s)	:	Arun Kumar, C.S.C.

Court No. - 29

**HON'BLE ARINDAM SINHA, J.
HON'BLE SATYA VEER SINGH, J.**

(Per: Arindam Sinha, J.)

1. Petitioners are a cooperative society. Respondent no. 4 is member thereof. Said respondent has sought reference to arbitration under section 70 in Uttar Pradesh Co-operative Societies Act, 1965. English translation of the claim statement filed by respondent no. 4 before the Registrar was handed over by Mr. H.R. Mishra. From it we see, the purchasers were made party by respondent no. 4 in seeking the reference. Prayers made in the claim statement are reproduced below.

" 5. Reliefs sought

1. That the Plaintiffs most respectfully pray that the sale deed executed by Respondent No. 1, which was registered in the office of the Sub-Registrar-I, Agra Sadar, on 29/08/2024, bearing Deed No. 1, Volume No. 12414, Pages 213 to 230, Serial No. 7662, be declared null and void.

2. Any other relief which the Hon'ble Arbitration Court deems fit and proper in the facts and circumstances of the case may also be granted to the applicant.

3. That the respondents may also be directed to pay the litigation expenses to the applicant; failing which the applicant will suffer financial loss."

The society (petitioners) have come up against the reference, seeking quashing of it.

2. Mr. H.R. Mishra, learned senior advocate appears on behalf of petitioners (the society). He submits, his client, for its purposes, sold away some lands. The sale deeds executed by his client, which conveyed the lands were duly registered. Prayer of respondent no. 4 in the reference seeking that the sale deeds be declared null and void is beyond scope of reference provided in section 70. He relies on judgment of the Supreme Court in **Delhi Dayalbagh Cooperative House Building Society Limited v. Registrar, Cooperative Societies** reported in (2019) 3 SCC 745, paragraph 48. Last sentence in the paragraph is reproduced below.

"48.....In the given facts and circumstances, if the allotment has been made by the society as a freehold land to its members who have further transferred/sold the subject land/plot by registered sale deed to its successors/purchasers, their rights to become member of the society are indeed saved under Section 91 of the Act, 2003 that in no manner could be eluded by the byelaws and that apart if anyone has any objection regarding the registered instrument(sale deed) pursuant to which right has been created, at least it is not open to examine its validity within the domain and ambit of Section 70 of the cooperative societies Act and any person, if felt aggrieved, the remedy lies only before the civil Court having jurisdiction questioning the registered instrument within the parameters available under the law. "

(emphasis supplied)

3. Mr. Krishna Mohan Mishra, learned advocate Additional Chief Standing Counsel appears on behalf of State. Mr. Arun Kumar, learned advocate appears on behalf of respondent no. 4. He submits, the reference is well within scope provided under section 70. He relies on view taken by a learned single Judge of this Court in **Yaduraj Singh vs. District Assistant Registrar, Cooperative Societies and Others**, reported in 2013 (1) AWC 427. He relies on paragraph 35 (Supreme Today Print), reproduced below.

"35. I therefore have no hesitation in rejecting the contention of petitioner(s) that respondents 1 and 2 have no jurisdiction to entertain dispute in question with respect to violation of conditions of sale-deed, bye laws and the Rules of Co-operative Society and to consider the consequences thereof on the sale deed(s) executed between the petitioner(s) and respondent no. 3 and to pass consequential order

accordingly. The jurisdiction of respondents 1 and 2 to arbitrate in these matters is thus upheld."

Mr. Krishna Mohan Mishra draws attention to paragraph 6 in the judgment (Supreme Today Print) to submit, the learned single Judge expressed the view in paragraph 35 on the contention of petitioner therein, as recorded in paragraph 6. Said paragraph 6 is also reproduced below.

"6. The basic contention of learned Senior Counsel for the petitioner is that impugned orders are without jurisdiction. Respondent no. 2 had no jurisdiction to declare a sale deed, null and void since such an issue could have been raised in a court of law only by filing a civil suit. So far as the appellate order is concerned, it is submitted that the appellate authority has exceeded its jurisdiction in dismissing appeal inasmuch as, when the sole Arbitrator himself lacked jurisdiction, the Appellate Authority also could have no jurisdiction to entertain the appeal. Even otherwise, appeal involving the disputed amount exceeding Rs. 10,000/- is maintainable before U.P. Cooperative Tribunal, Lucknow, as per notification dated 4.3.1979 and hence appeal was not maintainable before the District Assistant Register (Co-operative Societies)."

4. We see that scope of reference of disputes has been provided in sub-section (1) of section 70. Clause (b) in section 70(1) is reproduced below.

"70 (1) Disputes which may be referred to arbitration.-(1) Notwithstanding anything contained in any law for the time being in force, if any dispute relating to the constitution, management or the business of a co-operative society other than a dispute regarding disciplinary action taken against a paid servant of a society arise-

(a)

*(b) **between a member**, past member or any persons claiming through a member, past member or deceased member, **and the society its Committee of Management** or any officer, agent or employee of the society including any past officer, agent or employee; or*

(c)

(d)"

(emphasis supplied)

5. Challenge to the reference is in respect of its scope. We are to see the sale deeds executed by the society, if can be challenged in a reference on a claim

for them being declared null and void. It appears from **Delhi Dayalbagh Cooperative House Building Society Limited v. Registrar, Cooperative Societies (supra)** facts in that case were, allotments had been made by the society, of lands, to its members who had further transferred and sold the plots by registered sale deeds, to their purchasers. The Supreme Court said, right of the purchasers to become members of the society are indeed saved under section 91 of the Act of 2003 (Delhi Co-operative Societies Act, 2003), having similar provisions as in the local Act of 1965. In that context the Supreme Court said, as it appears to us, it is not open (for the Arbitrator/Registrar) to examine validity (of the sale deeds) within the domain and ambit of section 70 of the Cooperative Societies Act and any person, if felt aggrieved, the remedy lies before the civil Court having jurisdiction.

6. In this case the dispute raised is by a member against the society for dealing with the lands in favour of non members. The non members have not applied to become members. Respondent no. 4 (member) has assailed the transactions and wants declaration that they be declared null and void. Facts in this case are distinct from facts in **Delhi Dayalbagh Cooperative House Building Society Limited** (supra). However, we will go so far as to observe that in dealing with the reference the Arbitrator/ Registrar will answer it on authority had or lack of it, by the society, to convey the lands. In event respondent no. 4 is successful, he or the society can approach the competent civil Court for delivery up and cancellation of the registered sale deeds.

7. The writ petition is disposed of to extent as aforesaid.

January 20, 2026
sailesh

(Arindam Sinha,J.)

(Satya Veer Singh,J.)