

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5375 of 2015 (O/M)
Date of decision : 21.8.2015

Sh. Pankaj Bajaj

..... Revisionist

Versus

M/s Kalpana Chawla Memorial Educational Society and another
..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Aalok Jagga, Advocate, for the revisionist.

Mr. Rakesh Mohan Jain, Advocate,
for the caveator-respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

-. -

-. -

KULDIP SINGH, J. (ORAL)

Impugned in the present revision is the order dated 28.5.2015 (Annexure-P-1), passed by the learned Additional Civil Judge (Senior Division), Chandigarh, vide which the prayer of the present revisionist for decreeing the suit under Order XII Rule VI of Code of Civil Procedure, 1908, on the basis of admission of fact made in the written statement by the defendant, was declined.

The brief controversy involved in this case is that the plaintiffs, who are members of the defendant-Society, filed a suit for

CR No. 5375 of 2015 (O/M)

-2-

recovery of Rs. 1,87,96,446/- against the defendant-Society on various grounds mentioned in the plaint. The defendant-Society filed written statement making admission regarding the said amount. In the suit, it was alleged that the said amount was deposited by the plaintiffs with an undertaking and understanding that the amount being deposited will be considered as loan.

The lower Court took the view that the written statement is not properly verified and that there is no resolution of the Society, admitting the claim of the plaintiffs. Therefore, the lower Court refused to pass the decree under Order XII Rule VI CPC.

I have heard learned counsel for the revisionist, learned counsel for the caveator and have also carefully gone through the file.

The provisions of Order XII Rule VI CPC provide as under :-

“Rule 6. Judgment on admissions.- (1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under

CR No. 5375 of 2015 (O/M)

-3-

sub-rule (1), a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.”

The Rule itself shows that the Court has the discretion to pass the decree on the basis of admission. It follows that the Court is not bound to pass the decree on the basis of admission.

In the present case, the plaintiffs claimed that they are members of the defendant-Society and they had advanced a loan amounting to more than Rs. 1.86 crores. The defendant is an educational society. Therefore, there is possibility that the present administration of the society might have colluded with the plaintiffs for getting decree for a huge amount. If the claim of the plaintiffs was admitted by the Society, then there is no reason as to why the payment was not made out of the Court. Therefore, I am of the view that it is a fit case where the plaintiffs should be directed to lead evidence to prove their claim, so that the Court can find out as to whether the funds of the Society are not being misused or siphoned off by way of the present suit. Therefore, in the present circumstances, the discretion by the lower Court in refusing to pass the decree on the basis of admission was rightly exercised. The present revision is accordingly dismissed.

(KULDIP SINGH)
JUDGE

21.8.2015
sjks