

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

CR No.5252 of 2014
Date of Decision: 30.01.2015

All Haryana Pal (Gadaria) Samaj, Pal Dharamshala Building, District
Kurukshetra and another

. . . .Petitioners

Versus

Ramesh Kumar and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Saurabh Bajaj, Advocate,
for the petitioners.

Mr.Aayush Gupta, Advocate,
for respondents No.1 to 34.

None for respondents No.35 to 39.

RAKESH KUMAR JAIN, J. (ORAL)

This revision petition is directed against the order dated 21.7.2014 by which objections filed by the petitioners dated 17.4.2014 in the execution of the decree dated 30.1.2012 have been dismissed.

In short, the respondents filed a suit for mandatory injunction which was decreed on 30.1.2012. During the pendency of the appeal, filed by the petitioners, the Haryana Registration and Regulations of Societies Act, 2012 [for short 'the Act'] came into being. A plea was taken before the Appellate Court that as per Section 89 of the Act, the Civil Court has no jurisdiction and Section 89 of the Act would apply in the present litigation even if there is a decree. The said appeal was dismissed and the petitioners filed RSA

No.1830 of 2014. In this appeal also the same plea was taken as a substantial question with regard to applicability of Section 89 of the Act. The second appeal was dismissed by this Court on 16.10.2014. It may be also noticed that before the second appeal could have been dismissed, the objections were dismissed by the Executing Court on 21.7.2014 and hence, the present revision petition has been filed.

Learned counsel for the petitioners has vehemently argued that if there is an amendment with regard to the procedural law then it would operate retrospectively and in support of his submissions he has relied upon a judgment of the Karnataka High Court passed in **“Koraga Marakala and another Vs. Smt. Kamala and others”** 1988 AIR (Karnataka) 123 and a judgment of the Supreme Court in **“Kesar Singh and others Vs. Sandhu”** 1996(7) SCC 711.

On the other hand, learned counsel for the respondents has argued that the question as to whether Section 89 of the Act would apply or not has been looked into by this Court and the judgment and decree passed in their favour has been upheld. It is further submitted that once the judgment and decree passed on 30.1.2012 has been upheld by this Court, the petitioners cannot be allowed to raise objections with regard to the maintainability of the suit as they got the opportunity to challenge the judgment and decree dated 30.1.2012 on the ground of maintainability before this Court which has not been accepted.

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that there is no merit in the present revision petition. The question as to whether Section 89 of the Act would apply or not was available with the

petitioners at the time when they had filed the appeal, first appeal and second appeal before this Court but insofar as the decree dated 30.1.2012 is concerned, the same has been upheld by this Court and thus, the said decree is executable and cannot be set aside on the ground of maintainability of suit under Section 89 of the Act as alleged by the counsel for the petitioners. The judgments, relied upon by learned counsel for the petitioners, are thus not applicable to the facts and circumstances of the present case.

In view of the above, the present revision petition is hereby dismissed.

30.01.2015*Vivek***(RAKESH KUMAR JAIN)
JUDGE**