

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

**CR No.6743 of 2014 (O&M)
Date of decision: 04.12.2015**

Rajeev Malik and others

... Petitioners

Vs.

Pooja Roller Flour Mills Pvt. Ltd.

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Vikram Punia, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

The petitioner-defendants are in revision against the order dated 12.09.2014, whereby, the application filed under Order 7 Rule 11 CPC seeking rejection of the plaint as the suit being barred by law of limitation, on the ground, that name of the company was struck off from the register of the company in the year 1991, has been dismissed.

Mr. Vikram Punia, learned counsel appearing on behalf of the petitioner submits that as per the ratio decidendi culled out in **Yeshwant Raghunath Bhide vs. Income Tax Officer (Collection), Hubli (1974) 44 Company Cases 290** and, as well as, provisions of 560 of the Companies Act, 1956, once the name of the company has

been struck off, which ceased to exist, in case, any grievance was there, suit should have been filed by the independent person and not on behalf of the company.

A perusal of the reply filed to the application filed under Order 7 and Rule 11 of the Code of Civil Procedure (for short 'CPC') reveals that the respondent-company had admitted the factum of striking off its name from the register of the company on its own. It would be apt to reproduce paragraphs 7 and 8 of the reply which read thus:-

“7. That para No.7 of the application is totally wrong. There is nothing as such as alleged in this para regarding creation of the company in the article of association and the applicants are found to prove these facts. The business of the company was closed due to heavy losses and liabilities and debts. The company never gets struck off from its status. Company remains in existence and owner of property till it is not wound up.

8. That para No.8 of the application is totally wrong. The company was struck off from the list in 2007 and not in 1991.”

Keeping in view the aforementioned facts that since the respondent-company had admitted the factum of name having been struck off from the register of the company, it no longer is a legal entity and therefore, cannot defend and prosecute the suit in the capacity of the company. In essence, suit at the behest of the

company, in my view was not maintainable.

In view of what has been observed above, impugned order 12.09.2014 is hereby set aside and the application filed under Order 7 and Rule 11 CPC is allowed. Suit is ordered to be rejected.

Accordingly, the revision petition is allowed.

(AMIT RAWAL)
JUDGE

December 04, 2015
savita