

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

RSA No.93 of 2015 (O&M)
Date of decision: 12.03.2015

Balvir Singh and others

..... Appellants

Versus

Mangal Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Dharm Chand Mittal, Advocate the appellants.

RAJESH BINDAL, J

The appellants-plaintiffs are before this Court against concurrent findings of fact recorded by both the courts below, whereby, the suit filed by them for declaration claiming proprietary right in the suit property and further challenging the resolution dated 18.7.2009 passed by the Phullo Khari Schedule Caste Land Owners Co-operative Society (Ltd.)-respondent No.4 (for short “the Society”), was dismissed.

Both the courts below found that in term of Clause (b) of Section 55 of the Punjab Co-operative Societies Act, 1961 (for short “the Act”) read with Section 82 of the Act, jurisdiction of the civil court is barred.

For impugning the concurrent findings recorded by both the courts below, the learned counsel for the appellants sought to argue that the relief prayed for in the suit was that the appellants-plaintiffs have proprietary right in the suit property. No doubt the validity of the resolution was also challenged, however, part of the relief claimed was within the jurisdiction of the civil court, hence, suit could not be dismissed.

After hearing learned counsel for the appellants, I do not find any merit in the present appeal.

The relief of declaration claiming proprietary right in the suit property was based upon the result of challenge to the resolution passed by the Society. It was not even disputed by learned counsel for the appellants. Immediately after filing of the suit and service of the defendants, application under Order 7 Rule 11 CPC was filed by the defendants for rejection of the

plaint. In view of the provision of Clause (b) of Section 55 of the Act read with Section 82 of the Act, plaint was ordered to be rejected. The order was upheld in appeal.

Considering the aforesaid factual matrix, where the relief claimed by the appellants was dependent upon the result of challenge to the resolution passed by the Society for which civil courts did not have jurisdiction, in my opinion, no error has been committed by the learned courts below in allowing the application filed by the defendants for the rejection of the plaint. No substantial question of law arises. The appeal is, accordingly, dismissed.

(RAJESH BINDAL)
JUDGE

12.03.2015

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