

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 1311 of 2016 (O&M)

Date of Decision: 06.04.2016

Romesh Kumar Gupta and Others

... Petitioner(s)

Versus

Sumesh Narang and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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

Present: Mr. Deepak Jain, Advocate
for the petitioner(s).

Shekher Dhawan, J.

Present petition is challenge to the order dated 13.1.2016, passed by learned Civil Judge (Junior Division), Gurgaon, whereby application under Order 7 Rule 11 CPC for rejection of plaint was dismissed.

Learned counsel for the petitioners submitted that as per provisions of Section 89 of the Haryana Registration and Regulation of Societies Act, 2012 (hereinafter referred to as "the Act"), jurisdiction of the Civil Court is completely barred. In the main civil suit, filed before the Court below for permanent injunction and mandatory injunction, the

dispute was with regard to the societies only. The complaint, made by petitioner No.1, was in his capacity being President of the society and as such, the dispute could be heard and adjudicated by the Deputy Commissioner, Gurgaon. But the Court below erroneously dismissed the application for rejection of plaint on the ground of jurisdiction and the impugned order is liable to be set aside.

Learned counsel for the petitioners also submitted that for decision of the application under Order 7 Rule 11 CPC, the Court is to see the averments made in the plaint and not the pleas taken in the written statement. On this point reliance was placed upon the judgment rendered by the Hon'ble Apex Court in case ***Salem Bhai and Others v. State of Maharashtra and Others (2003)***¹ **Supreme Court Cases 557.**

Learned counsel for the petitioners further submitted that as per the provisions of Order 7 Rule 11 CPC, it is to be seen whether suit is barred under any law or not and such conclusion is to be drawn from the averments of the plaint itself. On this point, reliance has been placed upon the judgments rendered by the Hon'ble Supreme Court in ***Kamala and Others v. K.T.Eshwara SA and Others (2008)***¹² **Supreme Court Cases 661** and ***Om Aggarwal v. Haryana Financial Corporation and Others 2015(2) RCR (Civil) 913.***

Having considered the submissions made by learned counsel for the petitioners and having gone through the record of the case, this Court is of the considered view that petitioners had filed a suit for permanent injunction and mandatory injunction to restrain the

defendants not to circulate pamphlets/posters for making any false complaint against the plaintiffs before any Governmental or non-governmental authority and that matter does not come within the purview of authority under the Act and as such jurisdiction of the Civil Court is not barred. More so, the Court below has rightly observed that if the entire plaint is taken into consideration, the relief claimed in the main suit, on the basis of complaint itself, can be considered only by leading evidence because that is certainly a question of facts and law. On that account, present application under Order 7 Rule 11 CPC cannot be accepted and the Court below has rightly dismissed the same.

In view of above, present petition is without any merit and the same stands dismissed.

(Shekher Dhawan)
Judge

April 6, 2016

"DK"