

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.4749 of 2016

Date of Decision.27.07.2016

Maha Singh and another

.....Petitioners

Vs.

Ramesh Kumar and others

.....Respondents

Present: Mr. Vivek Goyal, Advocate for
Mr. Karan Singh, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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

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AMIT RAWAL J. (ORAL)

The petitioners, Maha Singh and Ramesh, are aggrieved of the order whereby the third party objections *viz-a-viz* the judgment and decree dated 30.01.2012 have been dismissed.

Mr. Vivek Goyal, learned counsel for the petitioners submits that the petitioners had filed the civil suit bearing No.534 of 2015 claiming declaration and permanent injunction qua inducting of the affected parties as members of the society but in the order dated 05.03.2016, the trial Court granted liberty to file third party objection in view of the fact that the previous suit i.e. Civil Suit No.88 of 2009 titled as “Ramesh Kumar and others Vs. All Haryana Pal (Gadaria) Samaj (registered) and others” was pending adjudication. Accordingly, third party objection in pursuance of the provisions of Order 21 Rule 97 CPC was filed but the same has been

dismissed in summary manner without adjudication of the objection by

framing the issues. He submits that third party objection as per the provisions of Order 21 Rule 101 CPC has to be tried as a suit and since, there is no decree/order, a revision petition would lie and no appeal is possible under Order 21 Rule 104 CPC would come into play. He further submits that though the impugned order is dated 20.05.2016 but as per the order dated 21.07.2016, judgment debtors have been called upon to produce on record the resolution indicating the factum of receipt of inducting the plaintiffs as the members of the society, so as to induct the decree holders as members and thereafter, holding of election of the society. Serious disputes have been raised in the objections *viz-a-viz* the eligibility of the plaintiffs for inducting them as members of the society, as they had allegedly created bogus receipts of membership. The trial Court ought to have dealt the objections strictly in compliance of Order 21 Rule 101 of the Civil Procedure code. This Court confronted Mr. Vivek Goyal, Advocate with provisions of Order 21 Rule 104 CPC to be read in conjunction with Order 21 Rules 98 and 101 CPC, as the procedure for treating the objection has been envisaged under Order 21 Rule 98 of the Civil Procedure Code. Any adjudication of the objection under Order 21 Rule 98 CPC as per the provisions of Order 21 Rule 104 CPC are to be treated as a decree and decree is appealable before the District Judge.

Learned counsel for the petitioners at this stage seeks liberty of this Court for withdrawal of the revision petition in order to enable him to file the appeal and also application under Section 14 of the Limitation Act as the petitioners had wrongly been advised to file the revision petition before this Court. In case, any application for condonation of delay is filed by the petitioners, the same shall be considered sympathetically.

In view of the aforementioned fact, the revision petition is dismissed as withdrawn with liberty aforementioned i.e. the petitioners are granted liberty to file an appeal against the impugned order in view of the provisions of Order 21 Rule 104 CPC accompanied with an application under Section 14 of the Limitation Act for condonation of delay and on filing of such application for condonation of delay, the trial Court shall decide the same as expeditiously as possible and preferably within a period of one month in accordance with law.

(AMIT RAWAL)
JUDGE

July 27, 2016
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No