

Civil Revision No.5850 of 2016

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 8.9.2016

Civil Revision No.5850 of 2016

Smt. Sumayya

--- Petitioner

versus

Smt. Basra Khatun and another

---Respondents

Civil Revision No.5876 of 2016

Smt. Sumayya

--- Petitioner

versus

Smt. Rajiya Bano and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Harkesh Manuja, Advocate
for the petitioner**

Rekha Mittal, J.

This order will dispose of Civil Revision No. 5850 and 5876 of

2016 as common questions of fact and law are involved for adjudication. For brevity, facts are taken from Civil Revision No. 5850 of 2016.

Smt. Basra Khatun, respondent filed a petition under Section 176 of the Haryana Panchayati Raj Act, 1994 (in short “the Act”) to challenge validity of election of Smt. Summayya for the post of Sarpanch, Gram Panchayat village Dhana under the provisions of the Act and amended Act, 2015. An application under Order 7 Rule 11 of the Code of Civil Procedure (in short “CPC”) for rejecting the election petition was preferred by the petitioner on the premise that election petition can be presented by the petitioner in person. As the election petition was not filed by the petitioner in person(respondent No. 1 herein), the same is liable to be dismissed on this score alone.

After seeking reply from the respondent/petitioner and having heard counsel for the parties, the civil court dismissed the application with the observations recorded in para 8 of the impugned order and a relevant extract therefrom, reads as follows:-

“The present petition has been presented on 6.2.2016 before the court of Learned ACJ(SD) F.P.Jhirka. The seal of presentation specifically have the recital

“presented by Sakil Ahmed, Adv. in person with counsel”. Signature of the petitioner Smt. Basru Khatoon is also present on the front page of the petition underneath (sic) the seal of presentation. It is pertinent to note here that the seal is having a recital of presented by Sakil Ahmed, Adv. in person with counsel. However, Sh. Sakil Ahmed himself is an advocate and he has no need to appear with any counsel. The recital of in person with counsel creates some doubts in the mind of this Court regarding the presence of the petitioner. It may be a circumstance that the petitioner had appeared but the name of her counsel has been written by the official of the court mistakenly. It is clear that the counsel has no need to appear in person with some other counsel. Since, the first page of the petition is having signature of the petitioner underneath the seal of presentation, I am afraid to reject the petition on this ground only. By the above discussion, I am of the considered view that the petitioner should not be penalized for the error of the

official of the Court. Hence the application in hand stands dismissed.”

Counsel for the petitioner is not in a position to advance any meaningful arguments to assail the observations made by the Court below on the basis of materials on record. Keeping in view the facts noticed by the trial court, I do not find any error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petitions fail and are accordingly dismissed in limine.

(Rekha Mittal)
Judge

8.9.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No