

237-A

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

**Civil Revision No.5857 of 2016 (O&M)
Date of Decision: 24.09.2016**

STATE BANK OF PATIALA AND ORS

.....Petitioners

Vs

SEWAK KUMAR AND ORS

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. H.N. Mehtani, Advocate
for the petitioners.

Mr. B.D. Sharma, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioners have assailed order dated 18.07.2016 passed by Civil Judge (Jr. Divn.) Phul vide which application under Order 7 Rule 11 read with Section 151 CPC filed by the defendants for rejection of plaint was dismissed.

[2]. Learned counsel for the petitioners contended that in the suit, plaintiffs sought following relief:-

“Civil Suit U/s 34 of the Specific Relief Act, 1963 for Declaration to the effect that Gross Misconduct Proceedings as initiated against the Plaintiff under Clause 5(d & j) of Memorandum of

Settlement dated 10.04.2002 on Disciplinary Action & Procedure vide Charge-Sheet dated 12.04.2013 followed by an Enquiry being held there into since 11.06.2013 and further Disciplinary Proceedings proposed to be held on 03.01.2014 & thereafter on day to day basis are all illegal, null & void ab-initio, arbitrary and no Proceedings at all in the eyes of law. And Consequently for setting aside & ordering cancellation of the entire Enquiry Proceedings held so far with further directions to restrain the Defendants not to Proceed further in the Disciplinary Proceedings till the decision in the present suit and to hold the Enquiry De-novo strictly in accordance with the procedure as prescribed in Memorandum of Settlement dated 10.04.2012, if they so desire. The Defendants be further ordered to pay to the Plaintiff suitable compensation & also for granting any other relief which this Hon'ble Court may deem fit and proper in the facts & circumstances of the case with full costs of the suit."

[3]. At one point of time interim relief was granted to the plaintiff, but subsequently the same was vacated and inquiry proceedings proceeded and the same were brought to the logical end. Order of punishment has already been passed against the plaintiff. In view of aforementioned, learned counsel for the petitioners submitted that the prayer of the plaintiff/respondent No.1 has become infructuous.

[4]. On the other hand, learned counsel for the respondents

contended that at the stage of Order 7 Rule 11 read with Section 151 CPC, only averments of the plaint are to be appreciated. The application filed by the defendants does not fall in any of the requirement of above said provision.

[5]. Learned counsel for the respondents further contended that the inquiry was not conducted by the Bank in accordance with the Memorandum of Settlement between the parties. Ultimately, if the trial Court comes to the conclusion that inquiry is vitiated on account of non-observance of memorandum of procedure, then the consequential proceedings would automatically come to an end.

[6]. In any case, at this initial stage no such firm opinion can be made. The averments of the plaint are sufficient to give rise to a cause of action in favour of the plaintiff/respondent No.1.

[7]. No ground is made out for rejecting the plaint at this stage. The defendants are at liberty to press for framing of preliminary issue at the relevant stage for that both the parties would be at liberty to lead evidence.

[8]. In view of facts and circumstances of this case, I do not find any error of jurisdiction in the order passed by the trial Court.

[9]. This revision petition is accordingly dismissed.

September 24, 2016
Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No