

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

RSA No.2958 of 2015 (O&M)

Date of decision: 18.1.2016

Navjan Morcha Samiti (Regd.)

... Appellant

versus

Amar Nath Arora and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Bikram Chaudhary, Advocate,
for the appellant

...

AMOL RATTAN SINGH, J. (Oral)

The appellant Samiti is in appeal against the judgments of the learned Civil Judge (Junior Division), Faridabad, and the learned Additional District Judge, Faridabad, dated 16.12.2010 and 2.3.2012 respectively, by which the suit and the appeal filed by the Samiti were dismissed.

The Samiti, which is stated to be running an Old Age Home, had filed a suit for declaration, with consequential relief of permanent injunction, to the effect that the respondents-defendants be declared to be no longer the office bearers/members of the Samiti, in view of the resolution dated 13.11.2005 (passed by the Samiti), expelling them from the Samiti, on the ground that they had not attended three meetings on 21.8.2005, 11.9.,2005 and 4.10.2005. The learned trial Court and the learned lower appellate Court, both, found upon appraisal of the documentary evidence produced by the appellant-plaintiff that, as a matter of fact, there was no resolution at all dated 13.11.2005, and that Ex.P2 was a letter of that date written to respondent No.3, Karam Chand. The minutes of the meeting

dated 13.9.2004 (exhibited as Ex.P-1 before the trial Court), was a resolution to expel the respondents from the Samiti, not on the ground that they had not attended any meeting, but on the ground that they were not giving any time to the Samiti and, in fact, were indulging in actions contrary to the interest of the Samiti. In view of the fact that the pleadings were wholly different to the evidence led before the trial Court, as above, and further that it was nowhere shown that the Samiti was actually a registered society, though purporting to be registered in the pleadings, the suit was dismissed. On the same ground, the appeal filed by the appellant was also dismissed by the first appellate Court.

Learned counsel appearing for the appellant could not refute the factual position, to the effect that there was no documentary evidence of any resolution, as was exhibited before the learned trial Court, dated 13.11.2005, by which the respondents had been expelled, on the ground that they had not attended three meetings on the aforesaid dates. The said dates, i.e. 21.8.2005, 11.9.2005 and 4.10.2005, are obviously almost one year after the date that the resolution dated 13.9.2004 was passed.

Keeping in view the fact that the plaintiff set up a case which was wholly contrary to Ex.P-1 led in evidence before the trial Court, and the reasons given for expelling the respondents were also wholly different in the resolution by which they had actually shown to be expelled, I find no reason to interfere with the judgments passed by the Courts below.

In view of the above, the appeal is dismissed, with no order as to costs. Obviously, the dismissal of the appeal is only with regard to the subject matter of the suit and would not be taken to be a comment on any

subsequent proceedings taken by the appellant.

In view of the fact that the appeal has been dismissed, the question of condonation of delays of 485 days and 545 days in filing and refiling the appeal respectively, are rendered academic.

18.1.2016

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(AMOL RATTAN SINGH)
JUDGE