

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR No.4996 of 2017(O&M)

Date of Decision:31.07.2017

Bal Krishan Bhumbra

...Petitioner

Versus

Gurdial Bhumbra and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sarwan Singh, Senior Advocate with
Mr. N.S. Rapri, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.3 has filed the present revision petition against the order passed by the learned Civil Judge (Junior Division), Ludhiana dated 12.10.2016. The operative part of order read as under:

“Ld. Counsels for the parties have been heard and file has been perused. The present suit has been filed by the plaintiff by which, inter alia, he has challenged the election held on 09.08.2015 for governing body of Gujjar Samaj Sudhar Sabha as the same has been held in violation of Memorandum of Association. As per the defendant No.3, there is no cause of action against him as he had resigned from the post of Head Cashier on 12.03.2006. This contention of the defendant No.3 is not tenable as the plaintiff has challenged the election held

on 09.08.2015 whereas the defendant No.3 had resigned on 12.03.2006. Accordingly, finding the present application, devoid of merits, same is hereby dismissed.”

Plaintiffs/respondents had filed a suit for declaration that the alleged election held on 09.08.2015 for the election of governing body of Gujar Samaj Sudhar Sabha is illegal, null and void. Plaintiffs had also prayed for permanent injunction and mandatory injunction.

Plaintiffs had pleaded the cause of action in the following manner:

“That cause of action accrued to the plaintiff against the defendant on the day, when the defendants have fraudulently held the elections and then by not disclosing the true accounts of Gujar Samaj Sudhar Sabha and the cause of action is continuous one.”

Defendant No.3-petitioner filed an application under Order 7 Rule 11 of CPC for rejection of the plaint and striking the name of defendant No.3 from the array of defendants. It was pleaded by defendant No.3 that he had resigned from the post of Head Cashier on 12.03.2006 and, therefore, the suit is not maintainable against defendant No.3.

Reply was filed by the plaintiffs. It was asserted that defendant No.3 has not resigned from the post of Head Cashier and he is being shown as Head Cashier till date by the Registrar of Societies.

I have heard the learned counsel for the petitioner at length. He has submitted that the petitioner is not the elected member of the Managing Body. He has further submitted that the petitioner is not the Head Cashier.

I have considered the arguments of the learned counsel for the petitioner.

Application under Order 7 Rule 11 CPC has to be decided on the basis of assertions made in the plaint. A reading of the plaint would show that the plaintiffs had alleged that the alleged elections held on 09.08.2015 are null and void being in violation of the Memorandum of Association of Gujjar Samaj Sudhar Sabha. For seeking this declaration, the plaintiffs had impleaded three defendants as party. It is not even the allegation of the plaintiffs that defendant No.3 is elected representative. Certain defendants have been impleaded as party, including defendant No.3, who are managing the affairs of the society.

In reply to the application under Order 7 Rule 11 CPC, plaintiffs have once again asserted that defendant No.3 is shown to be the Head Cashier till date.

In view of the above, I do not find any reason to interfere with the order passed by the learned trial Court.

Revision petition is dismissed.

31.07.2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No