

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.**

Civil Revision No.5918 of 2016 (O&M)  
Date of decision: March 07, 2017

Seema Devi

...Petitioner

Versus

Suman & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mr. S.S. Sahu, Advocate for the petitioner.

Mr. Amit Rana, Advocate for respondent No.1.

Dr. Sushil Gautam, DAG, Haryana.

**Rajan Gupta, J.**

In the present revision petition, petitioner has impugned the order dated 01.09.2016, passed by Addl. Civil Judge (Sr. Division), Ratia, whereby recounting of votes has been ordered.

Order has been assailed on the ground that the court below did not appreciate any evidence before directing recount of votes. Counsel for the petitioner has vehemently argued that the Tribunal had to come to a considered decision on the basis of material/ evidence. He submits that respondent No.2, who stood at second position, did not challenge the election, therefore, recounting of votes cannot be ordered.

Plea has been opposed by counsel appearing for respondent No.1. According to him, since respondent No.1 had challenged counting of votes, the court below rightly ordered recounting. There is no infirmity with the same.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It appears, election to the post of Sarpanch of Village Sukhmanpur was held on 24.01.2016. There was a contest between the petitioner Seema Devi and respondents No.1 to 3. It is claimed that petitioner got 326 votes, respondents No.1 to 3 got 358, 357 and 141 votes respectively. Petitioner Seema Devi was, thus, got elected. Her election was challenged by the respondent No.1 Suman before the court below. During the course of proceedings, the trial court passed an order directing recount of votes at the very initial stage. Aggrieved, petitioner has filed instant revision before this court. Reliance has been placed on judgment reported as *Subhash Chand vs. Ramesh Kumari and another, 2006 (2) R.C.R. (Civil) 777*.

It is evident that the order passed by the court below is non-speaking. The court has passed a short and cryptic order directing recounting of votes. Besides, same is not in consonance with the law laid down in *Subhash Chand's case (supra)*. The same is, thus, set-aside. Matter is remitted to the same court for decision afresh after hearing the parties. Parties shall be at liberty to refer to the judgments relied upon by them.

Petition is allowed in these terms.

(RAJAN GUPTA)  
JUDGE

March 07, 2017  
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No