

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

140

CR No.5781 of 2017
Date of decision: 08.12.2017

Jawahar Lal Sibia

..... Petitioner

Versus

Sanjiv Kalia and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sandeep Khunger, Advocate
for the petitioner.

Mr. Mandeep Singh Sachdev, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

Defendant-petitioner is in revision petition against the order dismissing the application under Order 7 Rule 11, CPC for rejection of the plaint.

Learned counsel for the petitioner has submitted that as per Section 97 of the Town Improvement Act, 1922, no suit is maintainable against any officer or servant of the Trust. He submits that since the action which the petitioner took was in discharge of his duties, therefore, the suit would not be maintainable.

On the other hand, learned counsel for the respondent has submitted that the plaintiff has filed a suit for recovery of Rs.5 lacs on account of compensation as damages suffered by the plaintiff on account of malicious, unworthy and unwarranted litigation brought by defendant No.1 with active connivance of defendant No.2. He has further submitted that

the plaintiff was involved in a false and frivolous case being FIR No.16 dated 30.07.2009 and after trial the plaintiff was acquitted.

Taking into consideration these facts, this Court is of the opinion that such plaint cannot be rejected only on the basis of bar as contained in Section 97 of the Town Improvement Act, 1922. Section 97 is extracted as under:-

“97. Indemnity to trust, etc. - No suit shall be maintainable against the trust, or any trustee, or any officer or servant of the trust, or any person acting under the direction of the trust or of the chairman or of any officer or servant of the trust in respect of anything lawfully and in good faith and with due care and attention done under this Act.”

It will be subject matter of evidence whether defendant-petitioner acted within the powers as conferred by the Act or not. The Act further provides that the officer is saved of the litigation if the action is in good faith and with due care and attention. This again would be subject matter of evidence.

In view of the aforesaid facts, this Court does not find any good ground to interfere with the order passed by the Court.

Revision petition is dismissed.

Nothing observed herein, shall have any bearing on the merits of the case.

08.12.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No