

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

137

CR No.7725 of 2017 (O & M)
Date of Decision:08.11.2017

The Tajalpur Multipurpose Cooperative Agriculture Service Society Ltd.
Tajalpur through its Secretary ...Petitioner

Versus

Jasbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vishal Sharma, Advocate
for the petitioner.

ANIL KSHETARPAL, J.(Oral)

Defendant-petitioner is aggrieved of order dated 14.07.2017 refusing to dismiss the suit on the ground of lack of jurisdiction. The suit was instituted on 17.07.2014. The headnote of the plaint reads as under:

“SUIT FOR DECLARATION to the effect that the order of dismissal dated 30.3.1995 and Appellate order dated 22.5.1996 issued by the defendants are illegal, null and void, ultravires, malafide, unconstitutional, discriminatory, against the principles of natural justice and the service rules, applicable to the plaintiff and notwithstanding the said illegal orders, the plaintiff is entitled to be reinstated into service on the post of Secretary with all rights, benefits and privileges including seniority and promotion and arrears of pay and allowances along with interest @ 18% p.a AND FOR MANDATORY INJUNCTION directing the defendants to reinstate the plaintiff into service on the

post of Secretary with all rights, benefits and privileges including seniority and promotion and also award him the arrears of pay and allowances along with interest @ 18% p.a which the plaintiff would have drawn/enjoyed had the impugned order of dismissal never been passed.”

Defendant-petitioner claims that the jurisdiction of the Civil Court is barred under Section 82 of the Punjab Coperative Societies Act, 1961. A reading of the order would show that the plaintiff has filed a suit challenging the order of his dismissal from service as well as the appellate order passed. The bar to the jurisdiction of civil court as provided under Section 82 of the Punjab Coperative Societies Act, 1961, is not absolute.

No application under Order 07 Rule 11 CPC was filed. Still further, the suit is pending in the Court for more than 3 years. Defendants are well within their right to request the learned trial Court to frame an issue on this account. At this stage, the suit filed by the plaintiff cannot be dismissed when the parties are yet to lead evidence.

Hence, this revision petition is dismissed.

08.11.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes
Whether Reportable : No