

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 8191 of 2017 (O&M)

Date of Decision: 22.11.2017

Sukhdev Singh Maan and another

.....Petitioners

Versus

Gurudwara Prabhandak Committee and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Pankaj Maini, Advocate
for the petitioners.

ANITA CHAUDHRY, J

The petitioners have assailed the order dated 16.11.2017 (Annexure P-1) passed by the Civil Judge (Junior Division), Chandigarh vide which the application filed by the defendants under Order 7 Rule 11 CPC has been dismissed.

I have heard the counsel for the petitioners at length.

The submission is that a suit was filed by Chanan Singh showing himself to be the Vice-President of Gurudwara Prabhandak Committee but since he was a retiree from PGI therefore had no *locus standi* to file the suit and the defendants filed an application seeking rejection of plaint which was allowed but against that order, an appeal was filed which has been allowed by the Additional District Judge, Chandigarh. Counsel for the petitioners submits that a revision is now pending in the High Court. The counsel contends that in the order passed by the Additional District Judge, the first Appellate Court had permitted the plaintiff to contest the suit on merits and the suit was ordered to be restored to its

have been amended after the rejection of plaint to overcome the order but the general body vide its resolution dated 9.3.2017 had withdrawn the powers of the plaintiff to file the suit and a new committee had come into existence and the powers of the plaintiff had been withdrawn and they had filed another application for rejection of the plaint under Order 7 Rule 11 CPC. It was urged that the powers given to the plaintiff had since been withdrawn therefore he had no authority to pursue the case and the lower Court has ignored facts and did not take notice of the resolution saying that it was a matter of evidence. The counsel further submits that the law is settled and the Court must decide the application under Order 7 Rule 11 CPC on merits, in accordance with law and it had observed that photocopies had been produced before the Court therefore, the matter be remanded back and the lower Court can take evidence and then decide the application or they can produce the original record here. Reliance was placed upon ***Daljinder Singh versus Amarjit Singh Jandu and others 2004(1) R.C.R. (Civil) 437, Saleem Bhai and others versus State of Maharashtra and others 2003(1) R.C.R. (Civil) 464, Vithalbhai Pvt. Ltd. versus Union Bank of India 2005(2) R.C.R. (Civil) 124 and The Bank of Rajasthan versus Manish Agarwal and another 2000(1) LJR 666.***

The case has a checkered history as can be noticed from the fact that it is for the second time that the defendants have filed an application under Order 7 Rule 11 CPC. The suit had been filed by Gurudwara Prabhandak Committee through its Vice President. The first application filed by the defendants had been allowed and the plaint had been rejected on account of the fact that the rules did not permit a retired official to be a member of the Committee. Thereafter the rules are said to have been

amended post the order passed on the application under Order 7 Rule 11 CPC which permitted its Vice President to continue to be a member of the Committee. The case set-up by the petitioners was that the elections were held and the new Committee had taken over and a resolution was passed and they had withdrawn the powers given to Chanan Singh, therefore the plaint should have been rejected.

I have gone through the authorities referred to by the petitioners. There is no dispute with respect to the law settled on numerous occasions that the application seeking rejection of the plaint has to be decided on merits and the Court cannot ask the defendants to file the written statement first as the facts in the written statement are not relevant. It is only the plea taken in the plaint which has to be examined. The case of the petitioners is that the elections were held and a new Committee has come into existence which has withdrawn the authority given to the plaintiff to file the suit. Whether any elections were held or whether any resolution was passed are of matters of evidence and will be deliberated upon only after the parties are put to trial. The plea taken by the petitioners cannot be considered in the absence of evidence nor there is any occasion for the Court to take evidence on the application filed under Order 7 Rule 11 CPC.

No case for interference is made out.

The petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

November 22, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No