

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.1670 of 2018 (O&M)

Date of Decision.03.05.2018

Shri Gow Rakshni Sabha (Regd) and others

.....Petitioners

Vs

Narinder Chawla and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Karanvir Singh Khehar, Advocate
for the petitioners.

-:-

AMIT RAWAL J.(ORAL)

The petitioners-defendants are in revision petition against the impugned order dated 11.01.2018 whereby an application moved by the respondent-plaintiff in the suit claiming declaration by challenging the termination of life membership in the Gow Rakshni Sabha (regd) to be illegal and null and void with further declaration that the aforementioned Sabha stood dissolved as the defendants were acting against the interest, wishes, by laws and rules and regulations with permanent injunction restraining the defendants to continue as officer bearers for production of document though has been dismissed but with liberty to the respondent No.1-plaintiff to summon the same from the office of the defendants at the time when plaintiff would be leading any evidence.

Mr. Khehar, learned counsel appearing for the petitioners-defendants submitted that the similar application for production of the record under Order 11 Rule 14 CPC was dismissed by the trial Court vide order dated 5.9.2016 (Annexure P-5) wherein the plaintiff had sought production of memorandum of Sabha and complete minute books of the meetings of the Executive Committee, therefore, second application on the

identical ground was not maintainable in the eyes of law, thus, the impugned order is liable to be set aside.

He further submitted that in view of the liberty granted vide impugned order, an application dated 22.02.2018 for summoning the witnesses on behalf of the plaintiff on deposit of process fee and diet money has been submitted which has been allowed by the trial Court as the summons have been issued to the concerned clerk/record keeper of petitioner-defendant/society to bring the following record:-

- (i) Memorandums of society of Shri Gow Rakshini Sabha (R) Ludhiana from the period it came into existence till date.
- (ii) Registration Certificate of the defendant No.1 Society.
- (iii) Lists of the members as well as the office bearers of the above said society from the period it came into existence till date.
- (iv) Original Minute Book/Resolution Register of the Society defendant No.1 from the period it came into existence till date along with the agendas thereof till date.
- (v) Entire original title deeds/revenue record with regard to the ownership of the property owned and possessed by the society defendant No.1.

As regards the documents mentioned in Sr. No.(iii) and (iv), the same was emphatically denied, for, the society does not have list of members as well as the office bearers since the period it came into existence and as well as minute books and resolution of the same from the period it came into existence as the same has no relationship with the adjudication of the *lis*.

the paper book. The contents of application submitted for summoning the record and the operative part of the order under challenge declining the application and the observations with regard to liberty to summon the record reads as under:-

“(1) Concerned Clerk/Record Keeper of Shri Gow Rakshini Sabha (regd), Gowshala Road, Ludhiana to bring the following record:-

(i) Memorandums of society of Shri Gow Rakshini Sabha (R)Ludhiana from the period it came into existence till date.

(ii) Registration Certificate of the defendant No.1 Society.

(iii) Lists of the members as well as the office bearers of the above said society from the period it came into existence till date.

(iv) Original Minute Book/Resolution Register of the Society defendant No.1 from the period it came into existence till date along with the agendas thereof till date.

(v) Entire original title deeds/revenue record with regard to the ownership of the property owned and possessed by the society defendant No.1.

Order dated 11.01.2018.

3. Ld. counsel for the parties have been heard and the file has been perused. By way of present application, the plaintiff has sought to direct the defendant to produce certain documents which are in the custody of the defendant for the purpose of the

evidence of the defendant. It is well settled law that a party has to stand upon his own legs to prove his case. If the plaintiff wishes to tender certain documents in evidence then he is required to summon the same. The opposite party cannot be directed to produce record on behalf of the plaintiff. As such, the present applicant is hereby dismissed with direction to the plaintiff to summon the said record from the office of the defendants.

4. Now to come up on 22.02.2018 for the evidence of the plaintiff.”

I am of the view that the Court below had not appreciated the fact that the previous application on identical ground was dismissed and it should not have given the liberty to summon the record as per the sweet will of the respondent-plaintiff.

Mr. Khehar submitted that he does not press for summoning of the record from the office of the concerned Registrar. He has serious objection with regard to record summoned on point No.(iii) & (iv), however, there is no objection for production of record on point No.(i), (ii) and (v). The aforementioned statement of Mr. Khehar appears to be just and fair, for, an attempt has been made on behalf of the respondent-plaintiff to draw adverse inference in the absence of the record. The focus of the Court is to adjudicate upon the suit in a pragmatic and reasonable manner by noticing the relief sought in the plaint and not going into the fishing/roving enquiry. Though apparently the record at Sr. No.(ii) and (iii) is not in consonance with the relief sought in the plaint. Be that as it may, the respondent-plaintiff would be at liberty to summon the record from the

concerned Department where the Society has been registered.

With the aforementioned clarification in the order under challenge, the revision petition stands disposed of, dispensing with notice to the respondents in order to defray their cost of litigation and save the valuable time of the Court.

(AMIT RAWAL)
JUDGE

May 03, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No