

113.

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

CIVIL REVISION-2622-2018

Date of decision:24.04.2018.

VIJAY KUMAR

... Petitioner

Versus

SRI SHIV MANDIR & DHARAMSHALA & ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. S.L. Chander Shekhar, Advocate,
for the petitioner.

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present revision petition under Article 227 of the Constitution of India for setting aside the impugned order dated 07.04.2018 (Annexure P-4).

Learned counsel for the petitioner has argued that the petitioner had filed a suit for declaration and permanent injunction and the said suit was decreed by the Civil Court vide judgment and decree dated 21.07.2016 declaring the resolution dated 19.04.2015 passed by the respondent-defendants as null and void being against the provisions of the constitution of the Sabha. As the petitioner-plaintiff was removed from the membership of the Sabha, the defendants were restrained from removing the name of the plaintiff from the roll of the Sabha. Thereafter, after passing of the judgment and decree dated 21.07.2016, petitioner filed a contempt application under Order 39 Rule 2-A CPC for punishing the respondents, followed by an application seeking reference of the application so filed under Order 39 Rule

has the exclusive jurisdiction to proceed under the Contempt of Courts Act, 1971. However, vide impugned order dated 07.04.2018, the application has been dismissed. The trial Court found that the petitioner-plaintiff failed to make out a ground for reference.

I have heard learned counsel for the petitioner.

Once a decree has been passed which has attained finality, the decree holder has a remedy to get it executed as per the provisions enshrined under Order 21 CPC. But even otherwise, the application filed by the petitioner-plaintiff under Order 39 Rule 2-A CPC is still pending whereas the impugned order dated 07.04.2018 has been passed on an application whereby the petitioner has sought reference to initiate contempt proceeding under the Contempt of Courts Act.

Learned counsel for the petitioner has further argued that though he has filed an application under Order 39 Rule 2-A CPC, but at this stage, he states that even the application filed under Order 39 Rule 2-A CPC was not required to be filed in the given facts and circumstances of the present case and the right remedy was to seek execution of the decree if it has attained finality.

Without making any observation on the merits of the case, since the petitioner has shown inclination to withdraw the application filed under Order 39 Rule 2-A CPC, no further orders are required to be passed in the present revision petition at this stage.

Disposed of.

(HARI PAL VERMA)
JUDGE

24.04.2018

sanjeev

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No