

202

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

**CR No.8561 of 2016 (O&M)
Date of Decision: 11.10.2018**

Chander Pal

.....Petitioner

Vs

Rajinder Nath and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Arvinder Arora, Advocate
for the petitioner.

Mr. Surinder Mohan Sharma, Advocate
for respondents No.1 to 6.

RAJ MOHAN SINGH, J.

[1]. Petitioner has assailed the order dated 15.11.2016 passed by the Civil Judge (Jr. Divn.) Naraingarh, District Ambala vide which application under Order 7 Rule 11 CPC was dismissed.

[2]. Plaintiffs filed a suit for mandatory injunction with the following prayer:-

"It is, therefore, respectfully prayed that mandatory injunction directing the defendants to produce the upto date audit report, and the record regarding the income and expenses relating to the income of Shri Raghunath Mandir

of village Panjlasa and authenticated record of lease amount, bank accounts, cash in hand as on date and complete record of the Resolution Register as well as proceedings pertaining to the election of members of executive committee of Shri Raghunath Mandir with a consequential relief of permanent injunction restraining the defendants from using the funds of Shri Raghunath Mandir in any way and not to withdraw any amount from the account of Shri Raghunath and not to conduct any transaction on behalf of Shri Raghunath Mandir through the authorized signatory of executive committee till the decision of the suit in the interest of justice, equity and law.”

[3]. Defendant No.4/petitioner filed an application under Order 7 Rule 11 CPC for rejection of plaint on the ground that jurisdiction of the civil Court was barred under Section 89 of the Haryana Registration and Regulation of Societies Act, 2012 (hereinafter to be referred as 'the Act') which prescribes that no civil Court shall have jurisdiction to entertain or proceed with the suit, settle, decide or deal with any matter which, under the Act, is required to be settled, decided or dealt with by any authority under the Act.

[4]. In the plaint the plaintiff pleaded that there is an Executive Committee of Shri Raghunath Mandir, which is working from the last so many years and the said Committee is registered with Registrar Co-operative Societies, Ambala in the year 1966-67 vide registration No.22 and the same was done

under the Registration of Societies Act, 1860.

[5]. According to Section 92 of the Act, The Societies Registration Act, 1860 in its application to the territorial jurisdiction of the State of Haryana has been repealed. As per Section 92(3) of the Act, any Society registered at any place in the State of Haryana under the Societies Registration Act, 1860 shall be deemed to have been registered under the new Act provided that the memorandum of bye-laws of any such society to the extent these are repugnant to or inconsistent with any of the provisions of the Act and the rules made there under, shall be brought in conformity with the provisions of the new Act within a period of two years from the date of commencement of the new Act or within such further period as the Government may allow and thereafter to the extent of such repugnancy or inconsistency, be deemed to be void and of no effect.

[6]. The *prima facie* consideration of the case would show that the needful in the context of proviso to Section 93(3) of the new Act has not been done so far. In view of Section 92(1) of the new Act, The Societies Registration Act, 1860 has been repealed. The societies registered under the old Act shall be deemed to have been registered under the new Act with a rider that it has to be brought in conformity with the provisions of the new Act within a period of two years with further conditions as

laid down in the aforesaid proviso.

[7]. In the light of aforesaid requirement, it would give rise to a triable issue as to whether the Executive committee would still be a registered entity in terms of new Act for want of compliance of Section 92 of the new Act. Section 75 of the new Act would show that District Registrar can condone the delay in certain cases on an application in writing furnished by the Society. All the aforesaid issues would be contingent upon proving the factum of moving application by the Society under Section 75 of the Act.

[8]. In view of above, the effect of the new Act would have the effect of cancellation of the registration of societies under the old Act in terms of Section 60 of the new Act. In any case, at this stage, the triable issues cannot be commented upon. Anything recorded hereinabove shall not be construed to be an opinion on ultimate merits of the case. The aforesaid issues have been discussed only on *prima facie* basis to consider the scope of Order 7 Rule 11 CPC in the present case.

[9]. The reasoning given in the impugned order though based on factual position be read in addition to the reasoning given hereinabove. The resultant effect is that the plaint cannot be rejected in terms of Order 7 Rule 11 CPC at this stage. This

revision petition is found to be devoid of merits and the same is accordingly dismissed.

October 11, 2018

Atik

Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No